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COMMITTEE AGAINST TORTURE

Twenty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 376th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 4 May 1999, at 10 a.m.

Chairman: Mr. BURNS

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Second period report of Luxembourg

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.376/Add.1.

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GE.99-41512 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Second periodic report of Luxembourg (CAT/C/17/Add.20; HRI/CORE/1/Add.10/Rev.1)

1. At the invitation of the Chairman, the delegation of Luxembourg (Mrs. Pranchère-Tomassini, Mrs. Clémang and Mr. Nicolay) took places at the Committee table.

2. Mrs. PRANCHÈRE-TOMASSINI (Luxembourg) conveyed to the Committee her Government's apologies for the considerable delay in submitting its report. It had been due in part to structural reasons and the excessive amount of work facing the Ministry of Justice. Luxembourg was fully aware of its obligations and had striven to reply to all the questions posed by the Committee when considering the initial report, as well as to report on all the changes that had since taken place in Luxembourg.

3. The country's institutions had been thoroughly restructured. The April 1999 constitutional review had resulted in the formal abolition of the death penalty, since articles 18 and 118 of the Constitution had been brought into line with the obligations arising from Protocol No. 6 to the European Convention for the Protection of Human Rights. Luxembourg had established a Constitutional Court on 27 July 1997 and thereby created a judicial organ with competence to rule on the constitutionality of laws. The Parliament had just adopted a bill designed to facilitate cooperation with the International Criminal Tribunal. A bill intended to bring domestic law into line with the provisions of the Convention against Torture, which had been approved by the Government and forwarded to the Conseil d'Etat for its opinion in September 1998, had been tabled in Parliament in February 1999. Meanwhile, the bill on international mutual judicial assistance in criminal matters referred to in the report was currently being examined by the Parliament's Legal Committee.

4. The present trend was to impose custodial sentences only in cases where such punishment constituted the last resort in securing the integration of the person concerned in society. The 1994 Sentencing Regimes Act had instituted a new type of punishment, namely community service, under which a convicted person was obliged to perform tasks of benefit to the community without payment. That type of punishment had originally been limited in scope, but its use was now expanding.

5. With a view to solving the problems raised by the detention of minors in the disciplinary section of the Luxembourg prison, it had been decided to build an annex to the rehabilitation centre for minors. The situation remained critical for detained minors, though a major effort had been made in the area of socio-cultural and educational activities. The deployment of staff specializing in handling minors was a slow process. Prevention activities and the protection of children enjoyed greater emphasis, in particular as a result of a recent case of child abduction in Belgium, which had greatly disturbed the public in Luxembourg.

6. The merger of the police force and the gendarmerie that had recently been decided upon would make the security forces more homogeneous and ensure a better mix of skills as well as increased transparency in staff organization and training. Training already included an introduction to human rights, for future officers, who were trained in Belgium or France, and NCOs, who were trained in the Ecole de Gendarmerie et de Police. The Institut de Formation Administrative, which was intended for all those working for the State, also provided relevant training. Where medical staff were concerned, aside from one year's university studies in Luxembourg, university-level medical and paramedical training was provided abroad, and particularly in France, Belgium and Germany. Students also received human rights training in that context.

7. Although it was possible to recruit civilians for prisons in cases where enough trainee guards could not be recruited, the shortage of prison staff had not been completely eliminated, but was due to be ended in the coming year.

8. In 1998 and 1999, Luxembourg had paid $21,000 and $17,000 respectively to the Voluntary Fund for Victims of Torture. The Government had also authorized a judge to participate in a campaign to create awareness of the problems of torture and ill-treatment in certain OSCE member countries. Luxembourg had not yet taken steps to mark International Day in Support of Victims of Torture, but public opinion had undoubtedly been mobilized in connection with those problems thanks to the international instruments to which the country was a party and the investigation and publicity campaigns carried out principally by NGOs, Amnesty International and Action by Christians for the Abolition of Torture.

9. Mr. GASPAR (Country Rapporteur) observed that Luxembourg had submitted its report very late, but noted with satisfaction that it complied with the criteria laid down regarding presentation and that the Committee had received no reports of cases of torture in the country. He also welcomed the official abolition of the death penalty in Luxembourg.

10. He pointed out that Luxembourg had incorporated in its legislation on aliens the guarantees they were offered under article 3 of the Convention as regards expulsion and refoulement, but that the amendment of the extradition law was still only at the draft stage.

11. He took note of the fact that certain penalties had been redesignated with the aim of avoiding any confusion as to the real nature of the punishment previously known as hard labour. Yet it had to be recognized once again that the legislation in Luxembourg did not define torture as a separate criminal offence even though the State party had made an undertaking to that effect under articles 1 to 4 of the Convention. Such a step was essential in the interest of greater transparency, and in particular for the purposes of international mutual judicial assistance. Consequently, the Committee wished to receive more extensive information on progress in making the modification along those lines as indicated in the report, as well as on the proposed change designed to meet the requirement for a universal jurisdiction to hear cases of crimes involving torture and provide persons in custody with greater rights.

12. He sought clarification concerning the conditions in which minors were held and the absence of checks on the disciplinary measures imposed on them. Appropriate steps should be taken to prevent punishments which amounted to ill-treatment. In that regard, the solitary confinement regime applied as a punishment to certain minors placed in socio-educational centres was a matter for serious reservations, as no appeals were possible and, in the case of minors, isolation could be equivalent to inhuman treatment.

13. Similarly, the report stated that adults could be subjected to disciplinary penalties such as placement in solitary confinement, which could last up to 12 months, and that no appeals could be made against that punishment before a judge or independent body. He would be pleased to have further details on that subject, and to know whether there were plans to modify that state of affairs.

14. Mr. CAMARA (Alternate Country Rapporteur) noted with surprise that, while the report did refer to article 8 in paragraphs 105, 106 et seq., it contained no section dealing specifically with that article. He therefore asked the Luxembourg delegation to account for that omission, and to report on the present status of the legislation and any planned new provisions.

15. Noting that articles 11 and 14 were not covered in the report, he called on the Luxembourg delegation to rectify that omission, in view of the special importance of article 11 in the context of the prevention of torture.

16. He also sought further information on the application of articles 12 and 13, since the paragraphs of the report in question seemed somewhat beside the point.

17. Concerning the application of article 15, he pointed out that departures from established practice were never to be ruled out, and for that reason the Committee considered that the obligations stemming from article 15 were of a procedural nature and should be handled through legislation. In addition, the practice of the courts referred to in paragraph 120 of the report only partially took article 15 into account. Under that article, not only were statements obtained as a result of torture not admissible in evidence, but they could and should serve as evidence against the torturer.

18. He pointed out that the scope of article 16 went beyond the treatment of minors and adults. The wording "Each State Party shall undertake to prevent ..." imposed an obligation on States parties to take specific measures, particularly the enactment of laws designed to forbid all actions that constituted cruel, inhuman or degrading treatment or punishment other than torture. Consequently, he wished to know whether such steps had been or were due to be taken.

19. He also sought the views of the Luxembourg delegation on the issue of minors in detention as raised in the papers sent to the Committee by Action by Christians for the Abolition of Torture and Infoprisons. The treatment of minors appeared to be incompatible with the obligations arising from article 16 as well as those imposed by other international instruments, including the Convention on the Rights of the Child and the Beijing Rules.

20. Mr. SØRENSEN asked whether persons held in pre-trial detention, and consequently still presumed to be innocent, could be placed in solitary confinement, and if so which authority took such a decision, what was the maximum duration of the punishment and whether there was a system for reviewing the decision.

21. Regarding convicted prisoners, he felt that the maximum length of solitary confinement was particularly long. He wished to know the delegation's view on the subject, and asked how frequently such punishment was imposed.

22. He considered that the two medical examinations which were mandatory for detainees placed in solitary confinement might serve as a justification for extending the punishment. In his view the doctor should come only at the request of the prisoner or the guards. Was Luxembourg prepared to contemplate such a change?

23. Concerning the rehabilitation of victims of torture, he welcomed Luxembourg's contribution to the United Nations Fund for Victims of Torture and asked whether centres offering treatment specifically aimed at such persons existed in Luxembourg.

The first part (public) of the meeting rose at 10.40 a.m.

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7 May 1999

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COMMITTEE AGAINST TORTURE

Twenty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 377th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 4 May 1999, at 3 p.m.

Chairman: Mr. BURNS

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Initial report of Venezuela (continued)

Third periodic report of Italy (continued)

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.377/Add.1.

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GE.99-41542 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Initial report of Venezuela (continued) (CAT/C/16/Add.8)

Conclusions and recommendations of the Committee

1. At the invitation of the Chairman, the members of the Venezuelan delegation resumed their places at the Committee table.

2. The CHAIRMAN invited the Country Rapporteur to read out the conclusions and recommendations adopted by the Committee on the initial report of Venezuela.

3. Mr. GONZÁLEZ POBLETE (Country Rapporteur) read out the following text:

"1. The Committee considered the initial report of Venezuela (CAT/C/16/Add.8) at its 370th, 373rd and 377th meetings, held on 29 and 30 April and 4 May 1999 (CAT/C/SR.370, 373 and 377), and adopted the following conclusions and recommendations:

A. Introduction

2. Venezuela ratified the Convention on 29 June 1991. It made the declarations provided for under articles 21 and 22 on 21 December 1993, and has not formulated any reservations or additional declarations.

3. Venezuela is also a State party to the Inter-American Convention to Prevent and Punish Torture.

4. The initial report was submitted with several years' delay and does not provide sufficient information on the practical application of the Convention. The Committee appreciates the assurance given by the State's representative that these shortcomings will be overcome and that the next report will be submitted on time and in the appropriate form.

5. A large and well-qualified delegation was present for the introduction of the report. The head of delegation updated and elaborated on it in his statement and through documents made available to the members of the Committee; responses were given to members' observations and questions. This procedure facilitated a more detailed examination, a better understanding of the report, and a frank and constructive dialogue, for which the Committee is grateful.

B. Positive aspects

6. In a declaration of principle, the head of the delegation expressed his Government's determination to be increasingly strict in the area of human rights.

7. The Code of Penal Procedure, which will enter into force shortly, contains very positive provisions that make good the deficiencies of the existing Code of Criminal Procedure; these deficiencies are identified as being highly conducive to the practice of torture and to shortcomings in its investigation and punishment. The full implementation of the new provisions should contribute to the eradication of torture in Venezuela.

8. The Government intends to submit for approval by the Legislature a Bill to Prevent and Punish Torture and Cruel, Inhuman or Degrading Treatment or Punishment, in order to give effect to the provisions of the Convention in domestic law.

9. The state of emergency in force since 1994 has been terminated in the frontier districts and the restrictions on constitutional guarantees have accordingly been removed.

10. The Act intended to combat violence against women and the family has entered into force; and the Organizational Act for the Protection of Children and Adolescents has been approved, and will enter into force next year. Both laws are intended to improve the protection of two particularly vulnerable social sectors who frequently fall victim to discrimination, abuse or cruel, inhuman or degrading treatment.

11. Training initiatives have been taken for law enforcement and prison personnel and have been developed with support from foundations and non-governmental organizations (NGOs); these are described in the part of the report relating to article 10 of the Convention.

12. The Public Prosecutor's Office has taken the initiative of organizing a national programme of workshops to acquaint medical professionals with recent scientific developments in the investigation of torture, in particular torture that leaves no visible or obvious marks.

C. Factors and difficulties impeding the application of the Convention

13. The marked contrast between the extensive legislation on matters addressed by the Convention and the reality observed during the period covered by the report would appear to indicate insufficient concern on the part of the authorities responsible for ensuring the effective observance of the Convention.

D. Subjects of concern

14. The high number of cases of torture and cruel, inhuman or degrading treatment which have occurred since the Convention's entry into force; they have been perpetrated by all the State security bodies.

15. The failure of the competent organs of the State to fulfil their duty to investigate complaints and punish those responsible, who generally enjoy impunity; this encourages repetition of the conduct in question. Not until the report was submitted was the Committee informed

of the imposition of administrative penalties, but it has not been informed of any judicial conviction for the offence of torture.

16. The continued existence in the Penal Code, the Armed Forces (Organization) Act and the Code of Military Justice of provisions exempting from criminal responsibility persons who act on the basis of due obedience to a superior; these provisions are incompatible with both article 46 of the Constitution and article 2, paragraph 3, of the Convention.

17. The non-existence of effective procedures for monitoring respect for the physical integrity of detainees in prisons, both civilian and military.

18. The overcrowding in prisons, where capacity is exceeded by over 50 per cent, the lack of segregation of the prison population, the fact that almost two thirds of prisoners are awaiting trial and the endemic violence rampant in Venezuelan jails mean that prisoners are permanently subjected to forms of inhuman or degrading treatment.

E. Recommendations

19. The prompt consideration, discussion and approval of the Bill relating to torture, whether it takes the form of a separate law or is incorporated in the provisions of the Penal Code.

20. The legislation in question must provide for the hearing and trial in the ordinary courts of any charge of torture, regardless of the body of which the accused is a member.

21. During the consideration and discussion of the Bill relating to torture, the Executive and the Legislature should request and bear in mind the opinions of national NGOs for the defence and promotion of human rights, whose experience in looking after victims of torture and cruel, inhuman or degrading treatment may help to perfect this legal initiative.

22. In the process of drafting a new Constitution a provision should be included which grants constitutional status to human rights treaties ratified by the State and their self-executing nature, as has been recognized in the decisions of the Supreme Court of Justice.

23. In addition, the new Constitution, through such provisions as may appear appropriate, should strengthen the legal conditions for the protection of personal security and integrity and for the prevention of practices that violate such security and integrity.

24. In connection with article 3 of the Convention, which stipulates that a person may not be expelled, returned or extradited to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture, the Committee considers that, for the purposes of the improved consideration of the advisability of applying this provision to a particular case, it would appear

appropriate for questions of passive extradition to be considered at two instances, a procedure which characterizes the Venezuelan judicial system.

25. On the same question, it is recommended that the State should regulate procedures for dealing with and deciding on applications for asylum and refugee status which envisage the opportunity for the applicant to attend a formal hearing and to make such submissions as may be relevant to the right which he invokes, including pertinent evidence, with protection of the characteristics of due process of law.

26. Repeal of rules providing for exemption from criminal responsibility on the grounds that the person concerned is acting in due obedience to a superior. Although these rules are contrary to the Constitution, in practice they leave open to judicial interpretation provisions which are incompatible with article 3, paragraph 2, of the Convention.

27. Continue the human rights training initiatives for State law enforcement officials and prison personnel, and extend them to all police and security forces.

28. Establish a governmental programme aimed at the physical, psychological and social rehabilitation of torture victims."

4. Mr. CEDEÑO (Venezuela) thanked the Committee members for considering the report and the presentation made by the Venezuelan Minister of Justice the previous week. He reiterated the firm intention of the Venezuelan Government to meet all its international commitments, and in particular those relating to human rights. His Government would note with great interest the concerns voiced in the conclusions and recommendations.

5. The delegation of Venezuela withdrew.

The meeting was suspended at 3.15 p.m. and resumed at 3.30 p.m.

Third periodic report of Italy (CAT/C/44/Add.2) (continued)

6. At the invitation of the Chairman, the members of the Italian delegation resumed their places at the Committee table.

7. Mr. MORENO (Italy) introduced his delegation's replies to the questions raised in the Committee by stating, in response to concerns expressed by the Chairman, that major changes had occurred in areas relevant to the Convention, notably irregular and clandestine mass migrations which had frequently given rise to real emergencies. The fact that, nevertheless, there had been no increase in the number of cases of ill-treatment of foreigners might be attributed in part to the preventive approach that had been adopted through awareness-raising and provision of information to members of the police forces. In short, racial discrimination and intolerance on the part of the police, and in places of detention where a substantial increase had occurred in the number of foreign inmates, did not appear to be a problem.

8. Mr. CITARELLA (Italy), in reply to a question from Mr. El Masry, said that, if the Italian Government had not yet fully attained its stated objective of complying with the recommendation of the Committee and the provisions of the Convention by incorporating the crime of torture into national criminal legislation, it was because of the contradiction between existing legislation, which provided for the prosecution of any injury inflicted on a detained person, and the Convention, which provided for punishment only if torture was inflicted on a person for certain purposes. It appeared, however, that that conflict had been resolved.

9. Mr. PIERANGELINI (Italy), replying to another question put by Mr. El Masry, said that any law enforcement officer executing an arrest warrant was required immediately to inform the suspect, both orally and in writing, of his right to designate a lawyer, to inform his relatives of his arrest and to refuse to answer questions.

10. In reply to the Chairman's question, a total of 18 reception centres existed to accommodate 3,000 newly arrived illegal or clandestine migrants, who remained for a maximum duration of 30 days during which their identity was established and expulsion procedures were prepared; the process was often hampered by the presentation of forged documents and false statements. Such reception centres in no way resembled prisons and, under law, residents were granted all necessary assistance and afforded full respect for their dignity and the freedom to contact people from outside the premises, to brief lawyers and see ministers of various religions and to communicate by mail or telephone; all documents were translated into a language comprehensible to the person in question.

11. Mr. MORENO (Italy), on the subject of the special commission of inquiry in Somalia, said that, as reflected in the Commission on Human Rights resolution (E/CN.4/1999/L.89) of 22 April 1999, Somalia had effectively had no government, judiciary or police since 1993. Consequently, while the Italian Government agreed with the suggestion of Amnesty International, it had not been possible to carry out the necessary investigations on the ground. The report of the government commission chaired by Professor Ettore Gallo, former President of the Constitutional Court of Italy, confirmed the findings of the administrative inquiries carried out by General Vannucchi, in accordance with which State sanctions, pertaining to the administrative sphere, had been taken against four officers and one non-commissioned officer, and military sanctions, as provided for by army regulations, against four officers and three non-commissioned officers by the Ministry of Defence. Those sanctions, which did not concern members of the army against whom criminal proceedings were being taken, related to the cases of Aden Aboukar Ali, tortured with electric cables, the rape of a Sowali girl, and the video tape of the weekly magazine "Panorama". Other cases raised by members of the Committee were still under investigation; the Gallo Report had concluded that it was unlikely that Moha Mohamed had lost his eye as a result of ill-treatment by Carabinieri of the Tuscany Division.

12. He welcomed the positive view expressed by one Committee member of the special tests taken by members of the police, which were being extended to all forces in charge of public order. Additional tests were taken by individuals entrusted with special missions such as peacekeeping.

13. Mr. MARCUSO (Italy) said that the problem of overcrowding in prisons had been alleviated by the construction between 1972 and 1979 of 78 new facilities, bringing the total capacity to 48,000 for a current prison population of 50,117. New legislation provided for an increase to 2,000 in the total number of social workers, educational personnel and civil officers in penal institutions. Meanwhile, steps were being taken to reduce the number of inmates, under legislation on the lines of the Simeone-Saraceni Law, providing for the release of prisoners serving short sentences or HIV-positive prisoners, while the possibilities for working inside prisons were being increased. Ordinary prisoners were permitted four regular contacts per month with their families, with an additional two for good behaviour.

14. Mr. MORENO (Italy), referring to the comment that foreigners applied more willingly to NGOs than to the public authorities, said that his Government welcomed the mediation of NGOs in investigating complaints of illegal acts. NGOs frequently worked in collaboration with police forces to combat criminal organizations exploiting prostitution. The Italian authorities welcomed the increasing role of NGOs in the field of human rights and their collaboration with the public bodies responsible for offering assistance and for combating criminal networks.

15. Mr. PIERANGELINI (Italy), on the subject of the legal provisions on identification, said that with a view to countering illegal activities, any police officer could request a person, whether of Italian or foreign nationality, to identify himself.

16. Mr. MANCUSO (Italy) said that, except in very exceptional circumstances (no more than 50 cases per year), any person taken into custody had the right of immediate access to his lawyer. The maximum delay, based on a reasoned order, was five days, and the judge must interrogate the arrested person within a maximum time limit of 96 hours from the time of arrest, in the presence of his lawyer.

17. Mr. MORENO (Italy) said that, owing to the nature of the rules governing dual Italian and Argentinian nationality, it had proved difficult to establish a correct channel for dealing with the matter of persons with dual nationality who had disappeared in Argentina. Italian criminal jurisdiction extended to all cases in which Italian nationals had been victims of serious injuries, and especially of homicide, in any part of the world, and criminal proceedings had long since been instituted by the Rome Tribunal in regard to such cases. Those proceedings had not so far yielded positive results because the Argentine authorities had turned down all requests for assistance by the Italian judges on the grounds that the cases under examination in Italy had already been decided in Argentina (principle of nec bis in idem). However, the judges had heard evidence from a large number of Argentine and Italian citizens, including many of the "Mothers of the Plaza de Mayo".

18. Mr. MANCUSO (Italy), referring to the case of Grace Patrick Akpan, who had been charged with defamation of police officers, said that, in the public interest and for historical and practical reasons, offences committed against members of the police force or other public officers entailed more serious consequences than comparable offences committed against a private citizen. In the former case, proceedings were instituted ex officio.

19. Mr. PIERANGELINI (Italy) attributed the delay in delivering a final judgement in the case of Salvatore Marino, who had died in a police station in 1985, to the fact that, under the three-level system of jurisdiction, an appeal to the Court of Cassation could entail the annulment of all prior judicial proceedings. The Court of Cassation had ordered a retrial in 1997.

20. Mr. MORENO (Italy) said that a series of seminars on the medical aspects of torture and injuries, organized by Italian regional medical associations, would be held in different parts of the country from September 1999.

21. Pending enactment of the bill on torture, non-specific rules governing redress, compensation and rehabilitation in cases of torture or ill-treatment were being applied. As a general principle, the culprit was personally responsible for remedying the consequences of his acts. However, public structures with which he was associated could also be held responsible for the civil consequences of crimes. In the "Uno bianca" case, the Ministry of the Interior had been required to compensate the victims of unlawful acts carried out by members of the Bologna police force. There was also a tendency to grant more substantial damages in cases of unjust detention. A branch of Parliament had recently approved a bill raising the ceiling for such damages from 100 million to 1,000 million lire (equivalent to about US$ 600,000).

22. He assured the Committee of Italy's conviction that full compliance with the letter and spirit of the Convention called for a continuous and frank exchange of views and committed collaboration.

23. Mr. EL MASRY (Country Rapporteur) said that a document circulated by the delegation to the Committee had listed 66 persons as being of "unknown nationality". What exactly was meant by that term?

24. He also asked for clarification of what was meant by an "offence against the State religion".

25. He understood that Italy had relaxed the regulations governing censorship of prisoners' correspondence. Communications with, for example, the Council of Europe human rights bodies and the United Nations Human Rights Committee were exempted from censorship. Perhaps the authorities would consider extending freedom of correspondence to communications with the Committee against Torture.

26. Mr. MORENO (Italy) said that illegal immigrants frequently destroyed their identity documents in order to create confusion and avoid expulsion to their country of origin. They were therefore described as being of "unknown nationality".

27. Mr. CITARELLA (Italy) said that a circular suspending censorship of communications with the European Commission on Human Rights and the European Court of Human Rights had recently been issued. As soon as it returned to Italy, the delegation would take steps to ensure that freedom of correspondence was extended to communications with the Committee.

28. Mr. MANCUSO (Italy) said that "offences against the State religion" had become obsolete since the Constitutional Court's decision some years

previously that Italy had no State religion. All religions were equal before the law and the same penalties were applicable to offences against them.

29. Mr. MAVROMMATIS noted that illegal immigrants were allowed to stay in reception centres for a maximum of 30 days. What happened if an immigrant had applied for asylum and the proceedings continued for several months?

30. Mr. PIERANGELINI (Italy) said that the 30-day limit did not apply to refugees or asylum seekers. Specific legal provision had been made for persons whose status was pending.

31. Mr. CITARELLA (Italy) said that foreigners who had filed an application for refugee status or asylum enjoyed freedom of movement pending a decision on their application.

32. The CHAIRMAN invited the delegation to return later in the session to hear the Committee's conclusions and recommendations.

33. The delegation of Italy withdrew.

The public part of the meeting rose at 4.20 p.m.

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COMMITTEE AGAINST TORTURE

Twenty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 378th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 5 May 1999, at 10 a.m.

Chairman: Mr. BURNS

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Third periodic report of the Libyan Arab Jamahiriya

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GE.99-41592 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Third periodic report of the Libyan Arab Jamahiriya (CAT/C/44/Add.3; HRI/CORE/1/Add.77)

1. At the invitation of the Chairman, Mr. Tleba and Ms. Al-Hajjaji (Libyan Arab Jamahiriya) took places at the Committee table.

2. The CHAIRMAN invited the head of the delegation of the Libyan Arab Jamahiriya to present its report.

3. Mr. TLEBA (Libyan Arab Jamahiriya), underscoring the importance of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was an essential instrument in the defence of human rights, reaffirmed the Libyan Arab Jamahiriya's commitment to that instrument and to individual freedom and respect for human rights in general.

4. The third periodic report, which the authorities had been keen to submit on time, described the political system of the Jamahiriya, which was a direct popular democracy in which the people was called upon to exercise its authority through the intermediary of people's congresses that took all important decisions, whether on questions of purely local interest or on matters of foreign policy, for example the ratification of international conventions. The people was therefore sovereign, and that was an ideal system in a world that was less than ideal. Regrettably, many countries failed to understand the democratic experience of the Jamahiriya, which had been slandered for purely political reasons.

5. Concerning the functioning of the legislative, executive and judicial branches, he stressed that they were independent and rejected a number of specious allegations emanating from misinformed non-governmental organizations (NGOs) according to which there was no independent federation of lawyers: such a body existed and was in fact a member of many professional groups, including the International Association of Lawyers, the International Association of Democratic Lawyers and the Union of Arab Jurists.

6. The second part of the report explained the application of the provisions of the Convention article by article as they related to the corresponding provisions of Libyan legislation. In the hypothetical case of a difference between domestic law and an international instrument, the latter systematically took precedence.

7. The most important provisions of the Convention were already part of legislation, which drew direct inspiration from the Islamic religion, for which the individual was sacred, as illustrated by the prohibition on any punishment that was contrary to human dignity.

8. The Libyan Arab Jamahiriya was also a place of refuge for persons persecuted for political reasons. Under its domestic legislation, a refugee could not be expelled; that was also in conformity with the provisions of the 1951 Convention relating to the Status of Refugees. Also, no state of emergency had been proclaimed since 1967.

9. All the provisions of the Convention had their equivalent in Libyan legislation, and civil servants were made systematically aware of the importance of respecting human rights, which was a special subject of study at the police academy.

10. In closing, he reiterated the Libyan Arab Jamahiriya's firm commitment to human rights; any act to the contrary could only constitute an isolated case, given the State's legislative system and the fact that such an act would constitute a violation not only of international instruments but also of the customs and teachings of Islam.

11. Mr. SØRENSEN (Country Rapporteur) noted with satisfaction that the third periodic report had been submitted on time and stressed that exchanges between the Committee and States parties were prompted by an ongoing concern to develop a dialogue.

12. In 1994, during consideration of the previous report (CAT/C/25/Add.3), articles 1, 4 and 16 of the Convention had been examined in depth, and the Committee had been pleased to see that the legislative apparatus had been very complete and in conformity with the Convention and that torture had been made a separate crime in domestic legislation. However, it had been alarmed to note that incommunicado detention had created conditions conducive to many violations of the Convention and had been concerned about allegations of torture and ill-treatment received from reliable non-governmental sources. It had then recommended that the State party should guarantee the right of detainees to see a lawyer, a doctor and their families and had urged it to make it unmistakably clear to the police that torture was unacceptable.

13. In its revised guidelines regarding the form and contents of reports, the Committee had expressly called upon States parties to report on how they had taken account of the Committee's recommendations. Accordingly, he drew attention to the question of incommunicado detention, which in the Jamahiriya could in certain circumstances last up to seven days. According to legislation, a detainee, even if held incommunicado, had the right to see his lawyer. But the Committee continued to receive allegations that some detainees were not allowed to do so and that others remained in incommunicado detention for very long periods and were tortured. Other allegations referred to detainees not being allowed to see a doctor. He asked what the situation was, not from the point of view of legislation, but in everyday practice. On the same subject, he requested figures on the number of detainees who might have been denied visits, for example in 1997 and 1998. He also inquired how many persons had been denied the right to see a lawyer and the number of complaints filed in that connection, a question the Committee had already asked in 1998.

14. Regarding article 3, he said that the legal provisions in force were excellent, and he was pleased to note that the Jamahiriya applied the principle of non-extradition of politically persecuted persons and freedom fighters. In that connection, nationals of the member States of the Arab Maghreb Union (AMU), to which Libya belonged, could settle freely in any member State and were thus not regarded as refugees; yet the Committee's attention had been drawn to the case of persons who had been ill-treated in Tunisia after being extradited to that country. It would therefore be useful to have more information on the nature of the link between article 21 of the Promotion of Freedom Act and the AMU Treaty, both at the legal and the practical level. It should be borne in mind that the provisions of article 3 were categorical: no one could be expelled to a State in which he would be in danger of being subjected to torture.

15. Turning to article 4 (2) of the Convention, on appropriate penalties for the offence of torture, he observed that, according to paragraph 39 of the report, article 435 of the Penal Code provided for a penalty of 3 to 10 years' imprisonment for any public official found guilty of an act of torture. Did the punishment fit the crime?

16. As to article 5 of the Convention, on universal jurisdiction, he noted that the Convention could be directly invoked, since international treaties took precedence over domestic law, but asked whether it actually had been in practice.

17. Lastly, in respect of article 8 of the Convention, he took note that article 493 of the Code of Criminal Procedure specified the conditions for extradition and inquired what would happen in the specific case of a person suspected of committing an act of torture who was a national of a State which had not ratified the Convention and in which torture did not constitute an offence as such. Under the conditions in the Libyan Penal Code, would that person be tried in the Jamahiriya?

18. Mr. YU Mengjia (Alternate Country Rapporteur) said that the report and the presentation by the delegation gave a very clear idea of the Libyan legal system and its principles. On the whole, the provisions of the Convention had been incorporated into the country's domestic law. He drew attention to a number of positive points: Libya recognized the primacy of international instruments to which it had acceded, including the Convention against Torture, over its domestic legislation; it maintained that it respected the principle of the independence of the judiciary; and it had made efforts to heighten awareness of the prohibition of torture through education and training, notably for law-enforcement officials.

19. Concerning more particularly the provisions of article 11 of the Convention on the systematic review of interrogation practices and arrangements for the custody and treatment of arrested persons, he asked whether, in addition to the legislative rules adopted, the State party had set up a review mechanism to identify and eliminate on time any failure to comply with the rules.

20. Regarding the principles set out in articles 12 and 13 of the Convention on the obligation to proceed to an investigation of allegations of torture and the right of victims of torture to lodge a complaint, he said that despite the examples given in paragraph 23 of the report, which suggested that Libya prosecuted the authors of such acts, the Committee continued to receive allegations of torture and ill-treatment. He asked the delegation to reply to those allegations. Had investigations been carried out in cases of death in custody reported in the media, and had the findings been made public?

21. Article 14 of the Convention dealt with the question of compensation for victims of torture. In view of what was stated in paragraph 82 of the report, he inquired whether the State paid compensation to the victim when a public official sentenced to pay compensation was insolvent.

22. As to the inadmissibility of confessions obtained under duress, which was covered by article 15 of the Convention, he asked the State party to comment on allegations of violations of that principle.

23. Lastly, paragraph 74 of the report stated that "the purpose of penalties is to reform, correct, rehabilitate, educate, discipline and admonish". How was that principle implemented, what had been the results, what was the rate of recidivism, and were there any statistics on the subject?

24. Mr. MAVROMMATIS welcomed the determination shown by the State party to promote human rights and apply the provisions of the Convention. The role of the Committee was to help States give concrete form to their efforts in that area. Hence the need to know how the Convention was implemented in practice. International instruments only set norms, and it was then up to the country to establish the procedures, mechanisms etc. for implementing them in the context of its own structures. He pointed out that neither the report nor the oral presentation had referred to the Committee's earlier recommendations. It was to be hoped that the delegation would do so in its replies. Concerning the independence of the judiciary, he inquired as to why the Secretary for Justice, who was a representative of the Government, was a member of the Supreme Council of the Judiciary: that called into question the independence of that body, which was responsible for appointing judges.

25. Paragraph 33 of the report stated that it was "prohibited to subject an accused person to any form of physical or mental torture ...". That provision was not in conformity with article 1 of the Convention, which protected all persons, and not just "accused" persons.

26. He would also like to have further information on the State party's regime for the enforcement of sentences, corporal punishment, if applicable, the death penalty and how the latter was carried out.

27. Concerning the provisions on extradition in article 8 of the Convention, he wondered how Libya justified the extradition to the Netherlands of the suspected perpetrators of the Lockerbie bombing, given

that paragraph 49 (d) of the report stated that one of the conditions for the admissibility of an extradition request was that it must not relate to a Libyan citizen.

28. In paragraph 23 of the report, the State party gave examples of cases that had come before the courts. Were there any statistics on the number of complaints lodged, investigations opened and prosecutions commenced following those investigations? Concerning case No. 76 of 1994, in which a police officer had been sentenced to one month's imprisonment and fined 100 dinars for violence against a number of persons, he was amazed at the leniency of the penalty and wondered whether Libya applied the principle of proportionality of punishment. If it did, then why had that offence, which was quite serious, if only because it involved several victims, not been punished more severely?

29. Lastly, he requested information on measures taken to monitor police stations and other places of detention in order to be certain that detainees were not subjected to ill-treatment or torture.

30. Mr. CAMARA stressed the serious manner in which the report had been drafted. However, he was surprised that, according to paragraph 37 of the report, the State party seemed only to protect persecuted persons and freedom fighters from extradition and asked whether, as required by article 3 of the Convention, all persons were not covered by that protection. He also sought clarification on the procedure applied when a person was interrogated, because the explanations in paragraph 65 of the report were confusing.

31. Mr. GASPAR asked for more information on paragraph 70 (d) of the report. Did Libyan legislation provide for physical constraint for failure to comply with contractual obligations in general or only in cases of financial offences?

32. Mr. SØRENSEN (Country Rapporteur) said that it would be important for the State party, notwithstanding its economic difficulties, to make even a token contribution to the United Nations Voluntary Fund for Victims of Torture, because such a gesture facilitated the rehabilitation of victims, who felt respected and recognized by the authorities of their country.

33. Mr. GONZÁLEZ POBLETE said that the Committee had received allegations of the practice of amputation and flogging as punishment, which was contrary to article 16 of the Convention. He requested information on the provisions of Libyan legislation relating to corporal punishment.

34. Mr. YAKOVLEV sought clarification on the content of article 26 of the Code of Criminal Procedure concerning the extension of detention, because anything that had to do with custody, pre-trial detention and, above all, incommunicado detention was crucial to the application of the Convention. Also, was not article 206 of the Penal Code, on political or opinion-making organizations, contrary to the principle of freedom of association? How exactly was article 206 implemented?

35. The CHAIRMAN said that, like Mr. Mavrommatis, he would like the delegation to comment on the allegation that there were no independent NGOs or human rights associations in the State party: if that was the case, the question arose as to what overall monitoring mechanism had been set up to ensure implementation of human rights conventions. Such monitoring was usually carried out either by independent organizations whose supervision was political or moral or by an appropriate government body, which became essential if such independent organizations were non-existent.

36. There was often a considerable discrepancy between the legal system set up by States parties and machinery for its actual implementation. From a formal point of view, the Libyan legal mechanism for implementing the Convention was not open to criticism, but the Committee needed to know more about how it worked in practice. Amnesty International, although it did not have an office in the State party, had apparently received reports that hundreds of persons had been arrested without a warrant and without being informed of the reasons and that political detainees were held incommunicado for periods of as long as one month, during which time they were tortured. For example, paragraph 447 of his recent report to the Commission on Human Rights (E/CN.4/1999/61) stated that the Special Rapporteur on torture had advised the Government of the Libyan Arab Jamahiriya that he had received information on methods of torture and other forms of ill-treatment applied to detainees during interrogation: it would be useful to hear the delegation's comments on that subject. The same document also referred to deaths occurring in custody; the case of Mr. al-Fourtiya, cited in paragraph 449 of the report, was particularly alarming, because he had apparently been detained without charge or trial from 1989 until his death in late 1994 or early 1995.

37. Like Mr. Mavrommatis, he would like to know whether capital punishment had been applied in the State party in the past four years and whether flogging was still practised; if so, it would be useful to have relevant statistics covering that period.

38. Lastly, after associating himself with other speakers in praising the punctuality with which the report had been submitted and the way it had been presented, he invited the Libyan delegation to reply, at a later meeting, to the questions asked.

39. The delegation of the Libyan Arab Jamahiriya withdrew.

The first part (public) of the meeting rose at 11.30 a.m.

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COMMITTEE AGAINST TORTURE

Twenty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 379th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 5 May 1999, at 3 p.m.

Chairman: Mr. BURNS

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Second periodic report of Bulgaria (continued)

Second periodic report of Luxembourg (continued)

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.379/Add.1.

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GE.99-41602 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Second periodic report of Bulgaria (continued) (CAT/C/17/Add.19)

Conclusions and recommendations of the Committee

1. At the invitation of the Chairman, the members of the delegation of Bulgaria resumed their places at the Committee table.

2. Mr. SØRENSEN (Country Rapporteur), read out the following text containing the conclusions and recommendations adopted by the Committee concerning the second periodic report of Bulgaria:

"1. The Committee considered the second periodic report of Bulgaria (CAT/C/17/Add.19) at its 372nd, 375th and 379th meetings, held on 30 April 1999 and 3 and 5 May 1999 (CAT/C/SR.372, 375 and 379) and has adopted the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the second periodic report of Bulgaria submitted in accordance with the guidelines for the preparation of State party reports. It appreciates the information provided by the representative of Bulgaria in his introductory statement and the open and fruitful dialogue.

3. However, the Committee regrets that the second periodic report was 7 years overdue.

B. Positive aspects

4. The Committee notes with great satisfaction that the State party has:

(a) made the declarations recognizing the Committee's competence under articles 21 and 22 of the Convention;

(b) ratified among other international and regional treaties the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT);

(c) abolished the death penalty;

(d) continued to reform and amend its domestic laws in order to protect human rights;

(e) continued its efforts to educate law enforcement officials in the field of human rights, particularly with regard to the prohibition against torture.

C. Factors and difficulties impeding the application of the provisions of the Convention

5. The Committee takes note of the economic problems currently existing in Bulgaria and the adverse effect that they have on some of the reforms in progress.

6. It recalls, however, that such difficulties could never justify breaches of articles 1, 2 and 16 of the Convention.

D. Subjects of concern

7. The lack in domestic law of a definition of torture in accordance with article 1 of the Convention and the failure to ensure that all acts of torture are offences under criminal law;

8. The legislative and other measures are not sufficiently effective to ensure respect for the provisions of article 3 of the Convention;

9. The lack of measures to ensure universal jurisdiction with regard to acts of torture in all circumstances;

10. The continued reports from reliable non-governmental organizations of ill-treatment by public officials, particularly the police, especially against persons belonging to ethnic minorities; and

11. The deficiencies relating to a prompt and impartial system of investigation of alleged cases of torture and the failure to bring those allegations before a judge or other appropriate judicial authority.

E. Recommendations

12. The Committee recommends that the State party:

(a) continue its effort to implement the provisions of the Convention, particularly articles 1, 2, 3, 4, 5 and 6 by adopting the necessary legislative measures in that regard;

(b) continue its policies and efforts to educate law enforcement personnel as well as medical personnel about the prohibition of torture;

(c) take effective steps to put an end to practices of ill-treatment by the police which still occur;

(d) ensure that all prisoners' correspondence addressed to international bodies of investigation or settlement of disputes is excluded from 'censor checks' by prison personnel or other authorities; and

(e) submit its third and fourth periodic reports due on 25 June 1996 and 25 June 2000 respectively on 25 June 2000 at the latest."

3. Mr. DRAGANOV (Bulgaria) thanked the Committee for its attention and undertook to transmit the conclusions and recommendations to the appropriate authorities.

4. The delegation of Bulgaria withdrew.

The meeting was suspended at 3.10 p.m. and resumed at 3.30 p.m.

Second periodic report of Luxembourg (continued) (CAT/C/17/Add.20)

5. At the invitation of the Chairman, the members of the delegation of Luxembourg resumed their places at the Committee table.

6. Mrs. CLEMANG (Luxembourg), in reply to the questions raised by Mr. Silva Henriques Gaspar, said that the bill regarding non-extradition of persons who might be subjected to torture, criminalization of torture and the universal jurisdiction of the Luxembourg courts had been submitted by the Government to the Chamber of Deputies on 26 February 1999 and that the decision of the Conseil d'Etat was expected during the autumn of 1999. The existing article 39 of the Code of Pre-Trial Proceedings established the right of a person taken into custody to contact a person of his choice, to have access to a doctor, either designated by the State Prosecutor ex officio or chosen by the detainee himself or a member of his family, and to be informed by the judicial police of his unrestricted right to counsel; the bill required that the detainee should be informed in writing of these rights, in a language he understood, against a written acknowledgement. The bill also specified that factual details on all those points should appear in the record of proceedings, including the reasons for any refusal or delay in permitting a detained person to contact a person of his choice.

7. Mr. NICOLAY (Luxembourg) added that the only occasion on which such contact had been denied had involved persons held in connection with a drug trafficking offence. The bill reflected the recommendations of a European Parliament delegation that had visited the country.

8. In response to Mr. Silva Henriques Gaspar's concern regarding disciplinary measures imposed on minors confined in Luxembourg prison, he said that, although no formal appeal mechanism existed, the fact that all decisions relating to punishment of minors were immediately reported to a judge who could amend them or suspend their execution constituted a substantial guarantee for detained minors. The list that had been circulated of disciplinary measures to which minors had been sentenced in Luxembourg prison in 1997 and 1998 demonstrated that most such measures were in the nature of a reprimand. Likewise, the President of the Monitoring and Coordination Committee could modify or suspend the execution of a solitary confinement order involving a minor in a State socio-educational centre; a specific appeal mechanism against such decisions also existed. A list had been circulated of the solitary confinement orders issued in 1997.

9. Existing legislation did not provide for appeal against the solitary confinement of adults and there was no independent body to receive detainees' complaints of violations of rights. In view of the urgent need to remedy that situation, the proposed amendments referred to in paragraphs 14 and 15 of the

report provided for the possibility of appealing by means of a letter addressed to the penal commission, composed of three judges, who were required to rule on the matter within 15 days. The information contained in paragraph 38 of the report regarding appeals against a solitary confinement decision was incorrect and the existing situation was accurately reflected in paragraph 15; the bill dealing with that matter, which was expected to become law by the end of the year, would remedy the absence of a formal appeal mechanism against a solitary confinement decision.

10. The Committee against Torture and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) had criticized the maximum term of solitary confinement in Luxembourg, namely 6 months or, in the case of repeat offenders, 12 months, as being too long. The Minister of Justice had decided to review the entire disciplinary procedure regime and amend the list of penalties, some of which were obsolete. A working group had begun studying the subject and would probably propose a reduction in the maximum term of solitary confinement to three or four months, with provision for renewal by a special commission in the case of dangerous prisoners.

11. The additional material to be circulated to the Committee contained figures for solitary confinement in 1997 and 1998. The maximum penalty had been imposed on only one occasion.

12. Mrs. CLEMANG (Luxembourg) said that the provisions of article 8, paragraphs 1 and 3, of the Convention were directly applicable in Luxembourg. A bill amending the 1870 Act concerning extradition to cover acts of torture was before Parliament and the regulations governing extradition were being updated. A number of bilateral agreements provided for extradition for offences punishable by a term of imprisonment of at least one year.

13. With regard to article 11 of the Convention, there was no specific body responsible for monitoring interrogation procedures and custody arrangements because no case of torture had been recorded in Luxembourg for several decades. However, there were procedural provisions that prevented law enforcement officials from coercing arrested persons into making statements and from questioning them after they had been brought before an examining magistrate.

14. Turning to articles 12 and 13 of the Convention, she said that, although there was no specific legal provision for the investigation of suspected acts of torture, effective guarantees existed for alleged victims. The Office of the Public Prosecutor ordered a preliminary investigation in all cases of suspected assault causing bodily harm. The Minister of Justice could also order the Office of the Public Prosecutor to institute legal proceedings in such cases. The right of individuals to complain to the judicial police, the public prosecutor or the examining magistrate was unlimited. In the event of allegations of professional misconduct by, for example, police officers or prison wardens, a disciplinary investigation would be conducted alongside the criminal investigation by the appropriate authorities.

15. With regard to article 14 of the Convention, the basic principle was that a victim of torture or ill-treatment could sue for damages in the courts. In the case of criminal offences, the victim could opt either for a civil action or for criminal indemnification proceedings. If the author of the alleged offence was a State official, the victim could sue the State for damages. Such cases were fortunately rare. However, the State could also be sued for damages due to excessively protracted legal proceedings.

16. The Government did not consider that supplementary legislation was needed to cover article 15 of the Convention. The case law demonstrated that evidence obtained in an unlawful manner was inadmissible. Luxembourg generally aligned itself with French and Belgian case law and there were no grounds to fear a reversal of policy. In the 1980s, for example, the judicial authorities in Luxembourg had ruled that evidence obtained through telephone tapping, which had been unlawful under all circumstances at the time, was inadmissible.

17. There had never been a case in which a statement obtained as a result of torture had been used to prosecute the torturer. However, the threat or use of torture in such circumstances would undoubtedly constitute grounds for prosecuting the culprit.

18. Mr. NICOLAI (Luxembourg) said the Government considered that the existing legislation and regulations covered all acts of cruel, inhuman or degrading treatment or punishment. He drew attention, in particular, to the provisions of the Penal Code concerning abuse of authority, racism and assault causing bodily harm, the legislation on the rights and duties of public officials and the regulations governing the regime in penitentiary establishments.

19. He provided the following daily figures for minors held in Luxembourg prison: 4 boys and 1 girl on 1 January 1997; 9 boys and no girls on 1 September 1997; 7 boys and 1 girl on 1 January 1998; 7 boys and no girls on 1 September 1998; 16 boys and 2 girls on 29 April 1999. An 18-year-old who appeared on the list for 29 April 1999 had committed a serious offence two days before reaching the age of majority but had been tried as a minor. There were usually about 10 minors in the prison. The figure of 18 was exceptional and occurred about twice a year.

20. The CPT had criticized the lack of basic facilities and specialized staff for minor detainees. The Government had since taken steps to improve the situation but it had proved difficult to recruit the necessary staff. The construction of a special security annex for minors would begin in late 1999.

21. Mrs. CLEMANG (Luxembourg) said that unaccompanied minors seeking asylum in Luxembourg were a recent phenomenon. The Ministry of the Family, having placed them in a temporary facility, requested the youth court to take protective measures on their behalf under the Act of 10 August 1992. They were then generally placed in a State-run children's hostel or a host family. Although the existing regulations made no provision for social support, the Ministry of the Family arranged for psycho-social care through the child welfare services. However, the authorities were aware that such ad hoc assistance should be replaced by more formal arrangements.

22. She was unable to provide further details concerning the case of a brother and sister aged 17 and 19 who had been given accommodation in a hotel. The authorities had probably failed to realize that they were in need of special assistance.

23. A rare blunder had occurred in the case of the 15-year-old Albanian who had been discovered homeless. In view of his inability to communicate in any language other than Albanian, the authorities had decided against placing him in a regular children's home in Luxembourg. His care had been entrusted instead to a non-governmental organization (NGO) with a record of regular cooperation with the Government on refugee issues. The NGO had arranged a placement for the youth in Metz, France, whereupon the Government had received a letter from the French authorities demanding why Luxembourg had proved unable to house him. In future, the Government would strive to ensure closer supervision of the placement of minors by NGOs.

24. The delegation could provide no information on the case of the 11-year-old alleged to have been placed in an adult penitentiary. There was little doubt, however, that an infraction had occurred.

25. Mr. NICOLAY (Luxembourg), in reply to questions raised by Mr. Sørensen, said that disciplinary sanctions applied to all detainees, including those in pre-trial detention, but only in the punishment of an offence. An identical regime applied to convicted persons.

26. Incommunicado detention could be ordered by an examining magistrate for a 10-day period, renewable once only, and could be appealed against. It did not affect the ordinary detention regime; it merely barred the detainee from communication with all persons apart from the defence lawyer. The detainee must be examined by a medical officer prior to the implementation of the measure. In response to concerns voiced by international NGOs in that regard, the regime was currently under government reappraisal.

27. It was his own personal view that a physician should not be involved in ordering solitary confinement as a punishment, in view of its potentially deleterious effects on a person's mental and physical well-being. He shared Mr. Sørensen's view that the physician's role should rather be to assist detainees and persons subjected to solitary confinement. It was to be hoped that the relevant legislation would be revised in the near future.

28. Mrs. PRANCHÈRE-TOMASSINI (Luxembourg), responding to a further question put by Mr. Sørensen, confirmed that there were currently no rehabilitation centres for torture victims in Luxembourg. Victims did, however, have the right to therapy with a physician of their choice. If the necessary treatment could not be provided within the country, there was the possibility of referral to a centre in Belgium or France. Such cases had hitherto been rare, but the situation was to be reappraised in view of the influx of refugees. In addition to providing care for individuals, the Government was also contributing to the United Nations Voluntary Fund for Victims of Torture.

29. In cooperation with international organizations in Geneva, the Government was also on the point of establishing a rehabilitation centre for child victims of armed conflict in the unoccupied part of the premises of the Permanent Mission of Luxembourg.

30. The CHAIRMAN thanked the delegation of Luxembourg for their replies to the Committee's questions.

31. The delegation of Luxembourg withdrew.

The public part of the meeting rose at 4.30 p.m.

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COMMITTEE AGAINST TORTURE

Twenty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 380th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 6 May 1999, at 10 a.m.

Chairman: Mr. BURNS

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Second periodic report of Morocco

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.380/Add.1.

This record is subject to correction.

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GE.99-41652 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Second periodic report of Morocco (CAT/C/43/Add.2; HRI/CORE/1/Add.23)

1. At the invitation of the Chairman, Mr. Benjelloun-Touimi, Mr. Belmahi, Mr. Habib Belkouch and Mr. Majdi (Morocco) took places at the Committee table.

2. The CHAIRMAN invited the delegation to introduce the second periodic report of Morocco.

3. Mr. BENJELLOUN-TOUIMI (Morocco) said that his country viewed human rights as an end in itself and as an essential factor of economic development. A series of normative and institutional measures had been introduced and specific actions undertaken to strengthen respect for human rights. The country's political will had found concrete expression in the reform of the Constitution and the appointment, in April 1998, of a new Government headed by a long-standing champion of human rights. In a context thus favourable to the protection of fundamental rights and freedoms, political prisoners had been released, exiles had been authorized to return to their country and persons involved in criminal cases of a political nature had been pardoned; furthermore, the cases of 112 persons presumed to have disappeared between 1960 and 1980 had been clarified, and the persons concerned or their next of kin were to receive compensation.

4. The authorities, anxious to establish the rule of law, were giving particular attention to judicial reform, promoting the independence of the judiciary and strict compliance with the law. They were also anxious to humanize the prison environment and, to that end, were endeavouring to improve detention conditions, an undertaking made difficult by prison overcrowding. The number of doctors employed in prisons had risen. Abuses and negligence were punished, and a mechanism for detecting deaths due to ill-treatment had been established. Moreover, a counter-investigation could be conducted at the request of members of the deceased person's family or of non-governmental organizations (NGOs). Places of detention could be visited for the purpose of checking their conformity with the rules. All sectors of society were invited to contribute towards those reforms.

5. The State was also making efforts in another field, that of dissemination of human rights culture. To that end, a programme designed to introduce the teaching of human rights into the school curriculum had been drawn up in collaboration with the Office of the United Nations High Commissioner for Human Rights. It was also planned to establish a human rights documentation and training centre within the same cooperation framework. The Government was making efforts to strengthen its dialogue both with national associations concerned with the defence of human rights and with international and regional organizations. Thus, various events had taken place, in particular meetings with national institutions of Mediterranean countries and with the Secretary-General of Amnesty International, and regional conferences on human rights had been held.

6. So far as the Committee's recommendations were concerned, note should be taken of the Prime Minister's declaration that "the Moroccan Government will adapt Moroccan laws to international instruments". To that end, the Ministry of Human Rights had received a mandate to investigate the conformity of Moroccan laws and regulations with international human rights standards and to amend them in consequence, as well as to identify any obstacles to the implementation of those standards.

7. In conclusion, he said that the Moroccan delegation was ready to provide the Committee with any information that members might consider necessary, and assured the Committee that its suggestions and recommendations would be transmitted to the authorities.

8. Mr. CAMARA (Country Rapporteur), welcoming the opportunity to enter into a fruitful dialogue with the Moroccan delegation, recalled that following the consideration of the initial report of Morocco the Committee had addressed some recommendations to the State party, some of which had been implemented, viz. the publication of the Convention against Torture in the Official Bulletin in December 1996 making the Convention not only applicable but also invokable against any authority and the introduction of political reforms towards the establishment of the rule of law. On the other hand, no action had been taken on two recommendations of major importance: the definition of torture as set forth in article 1 of the Convention had not been incorporated in domestic law and the State party had not made all acts of torture offences under its criminal law as it was required to do under article 4 of the Convention. Moreover, Morocco had not withdrawn its reservations to articles 21 and 22, which considerably restricted the Convention's scope of application. More information on those points would be welcome, as also would an assurance by the State party that everything would be done to remedy those omissions.

9. In connection with the provisions of article 3 of the Convention, paragraph 32 of the report described the procedure governing refoulement, expulsion and extradition and added that "such measures are adopted by administrative decision and the alien can always appeal to the relevant administrative court for their annulment". He would appreciate fuller information about the legal mechanism for making such an appeal and wondered whether it was in fact resorted to. He also wished to know whether Morocco had acceded to the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa; the definition of a refugee given in that instrument was broader than that in the 1951 Convention relating to the Status of Refugees. Furthermore, Morocco should comply with article 3 of the Convention, which protected all persons from expulsion, refoulement or extradition where there were substantial grounds for believing that they would be in danger of being subjected to torture, whereas it emerged from paragraph 35 of the report that, the State party was applying restrictive provisions in that area.

10. The provisions of articles 751 and 756 of the Moroccan Penal Code, like those of article 701 of the draft Code of Penal Procedure, were contrary to article 5.2 of the Convention in that they placed restrictions upon the jurisdiction of the State party. Similarly, the Moroccan provisions concerning the detention of a person suspected of having committed an act of torture were not in conformity with article 6 of the Convention. While

torture was not a criminal offence under Moroccan law, the provisions of the Dahir of 8 November 1958 were not applicable to aliens having committed acts of torture against another alien or outside Moroccan territory. For the same reasons, the State party could not fully discharge the obligation to extradite or prosecute because the courts could not exercise their jurisdiction under all circumstances. Moroccan law was therefore not in conformity with article 7 of the Convention. Lastly, with reference to the principles relating to extradition treaties concluded between States parties, which formed the subject of article 8 of the Convention, he asked for further information as to how the State party was planning to enter into full compliance with the provisions of that article, and in particular with its paragraph 4.

11. Mr. GASPAR (Alternate Country Rapporteur) commended the efforts made by the State party to strengthen the protection of human rights. In particular, referring to the question of mutual judicial assistance dealt with in article 9 of the Convention, he welcomed the fact that under the agreements on mutual judicial assistance concluded by Morocco it was on no account possible to invoke the political nature of offences in order to refuse to cooperate at the judicial level. He wished to know, however, whether under Moroccan law all the offences listed in article 4 could form the subject of the most extensive possible mutual judicial assistance even in the absence of bilateral treaties.

12. With reference to the implementation of article 10 of the Convention concerning the training of law enforcement personnel, he noted that education and training were the best means of preventing acts of torture and ill-treatment. Additional information would therefore be welcome concerning the nature of the instruction given, its duration, and any adult education or other programmes introduced in Morocco in the human rights field. Paragraphs 71 to 75 of the report did describe the efforts undertaken by the State party in that area, but some concerns still remained, especially with regard to the training of law enforcement officers in rural areas.

13. Under articles 12 and 13 of the Convention, States parties were required to proceed to a prompt and impartial investigation wherever there was an allegation of torture, without it being necessary for the victim to have lodged a complaint. Yet the Committee had received information from NGOs to the effect that the Moroccan authorities refused to start an inquiry unless a formal complaint had been lodged by the victim. He would like to hear the Moroccan delegation's comments on that point and to receive additional information on the nature of complaints addressed to the Ministry of Human Rights and to the Advisory Council on Human Rights as well as on action taken on them.

14. In June 1988 an NGO had transmitted to the Advisory Council on Human Rights a list of 30 cases of deaths which had occurred during or following detention between 1994 and 1998; investigations had apparently been held and a member of the security forces punished. It would be useful to the Committee to hear the results of those investigations and any decisions taken in consequence.

15. It would be interesting to know whether any compensation was envisaged for the persons presumed to have disappeared who had, in fact, been in prison. Could those among them of whom it was established that they had been tortured also claim compensation and possibly benefit from rehabilitation programmes? Lastly, had any effort been made to establish the penal or disciplinary responsibility of persons responsible for the death or imprisonment of "disappeared" persons whose name had been cited by the Advisory Council?

16. Moroccan law did not expressly provide that evidence obtained by torture was inadmissible; it should be brought into line with the provisions of article 15 of the Convention, which provided that not only confessions or testimony by witnesses, but also indirect evidence obtained by torture, could not be invoked. Even official statements by police officers had to be treated with caution. It would be interesting to know whether such statements were made exclusively in cases of flagrante delicto and related to directly verifiable facts or whether they could also deal with declarations made by suspects or witnesses.

17. In connection with article 16 of the Convention, it would be useful to hear the delegation's comments on the subject of allegations made by certain NGOs concerning conditions of custody in police stations and even in certain institutions of a social nature, as well as concerning police raids and other acts that could be described as cruel, inhuman or degrading treatment. In particular, he asked what action had been taken over the much-discussed case in which a suspect arrested by an "anti-gang brigade" in April 1995 had allegedly been taken to a public square in Rabat, forced to accuse himself and exposed to public opprobrium.

18. Mr. GONZÁLEZ POBLETE remarked that, in view of the progress already made, Morocco could perhaps decide to withdraw the reservation to article 20 it had entered when ratifying the Convention.

19. The report under consideration said nothing about military jurisdiction in criminal matters. It would be useful to have some details about the jurisdiction of military courts and to hear whether it extended beyond cases concerning the army. Were military courts empowered to try certain acts committed by civilians or to try military personnel for breaches of ordinary law? In particular, what happened if a member of the armed forces was accused of acts of torture?

20. Lastly, it appeared from the report under consideration that once a convention had been published in the Official Bulletin, it prevailed over domestic law in the event of a contradiction between them. In view of the fact that the Convention had been ratified in 1993 but published in the Official Bulletin only in 1996, what was the situation regarding acts of torture committed between those two dates, when the State party had already been subject to the provisions of the Convention inasmuch as it had ratified that instrument?

21. Mr. MAVROMMATIS noted with satisfaction the changes made in Moroccan law which represented a considerable advance towards the protection of human rights, even if a great deal still remained to be done with regard to torture, since the organs most likely to commit acts of that kind were not as yet under

sufficiently close scrutiny; specific measures had to be taken to prevent or terminate such practices. So far as legislation was concerned, the Committee's observations would undoubtedly be taken into consideration in the preparation of a new penal code and a new code of penal procedure, but practical measures would also have to be taken, including, in particular, steps to educate and sensitize law enforcement personnel, but also, for example, the introduction of unannounced visits to police stations.

22. Police custody was normally limited to 48 hours but could be extended to 96 hours in cases of violation of State security: it was legitimate to wonder why the lawmakers had deemed it necessary to provide for such a long period and whether, and by whom, the person held could be authorized to contact a lawyer.

23. The Committee considered it necessary that States parties should incorporate in their laws, in some form, the definition of torture set forth in the Convention. The existing provisions of Moroccan law, for example those relating to assault and battery, did not entirely cover the acts dealt with in the Convention, and the simplest way of prohibiting them would be to list them in extenso. The same applied to ruling out any evidence obtained by torture: an express provision on that point was the best means of convincing potential perpetrators of acts of torture of the futility of such acts. Lastly, the provisions relating to extradition for acts of torture could also be expanded; their importance had recently been demonstrated by the case involving that notorious torturer, Mr. Pinochet.

24. Mr. SØRENSEN also welcomed the advances achieved in Morocco. In particular, the situation with regard to raising the awareness of law enforcement officials under article 10 of the Convention was highly positive. But the report did not indicate whether instruction in human rights had also been introduced for medical personnel; yet doctors played a primary role in the torture problem - a deplorable role when they invented methods leaving no trace, participated in torture or falsified medical or autopsy reports, and a useful one when they worked towards the rehabilitation of victims. It was therefore essential for the training of medical personnel to include adequate instruction on human rights and the prohibition of torture. He would appreciate more information on that point, and suggested that medical issues should be incorporated in the training to be provided at the human rights training and documentation centre.

25. In connection with police custody, it would also be useful to hear whether a suspect could, immediately on arrest, inform a third party of his or her situation and ask to be examined by a doctor of his or her choice.

26. The situation of prisoners had greatly improved, many of them had been released and the Standard Minimum Rules for the Treatment of Prisoners were now the norm being applied in Morocco. In that connection, it was stated in paragraph 93 that detainees placed in solitary confinement had the right to be visited regularly by the in-house doctor, but also that solitary confinement could be extended beyond 15 days by a decision of the central administration. It would be useful to know whether such extension was a common or only an occasional measure and whether or not the administration could reapply it indefinitely. Paragraphs 98 and 99 gave an idea of the seriousness of the

problem of overcrowding in prisons. It would be interesting to know the number of prisoners that Moroccan prisons could normally accommodate as compared with that of persons actually imprisoned, as well as the proportion of pre-trial detainees as against convicted prisoners.

27. The Moroccan representative had said that an autopsy was practised systematically on all detainees who died; he would like to know how many had died in, say, 1997 or 1998, as well as the result of the autopsies. In the event of deaths not due to natural causes, was an investigation held in order to determine the nature of those causes (assault, lack of food, etc.)?

28. In connection with article 14 of the Convention, it was legitimate to hope that a rehabilitation centre for victims would be opened in Morocco and that it would have the Government's support. With regard to compensation for victims, it should be realized that victims of injustice were extremely sensitive to any manifestation of respect towards them; even a token contribution to the Voluntary Fund for Victims of Torture, made, for example, on the occasion of the International Day in Support of Victims of Torture, would certainly be very favourably received by them.

29. Mr. EL MASRY, recalling that article 5 required each State party to establish its jurisdiction where the alleged offender was present in any territory under its jurisdiction, asked the Moroccan delegation to comment on the fact that certain persons responsible for human rights violations in Polisario Front camps in Algeria were now in Morocco and were even holding prominent positions in the administration.

30. Mr. YAKOVLEV urged the State party to include torture as an autonomous and specific offence in its Penal Code and also to include all parts of the definition of torture appearing in article 1 of the Convention. While the section of the report on the implementation of article 4 listed a number of articles in the Code providing punishments for various offences resulting in injury or death, it was difficult to identify acts of torture as defined in article 1. Furthermore, while the established practice in Morocco was clearly to make the severity of the punishment fit the seriousness of the injury, torture had to be punished whether or not it caused serious injury or death, and it also had to be punished as an offence committed by a public official or any other person acting in an official capacity. Moreover, the law in force in Morocco did not indicate that torture was generally practised for a specific purpose - that of obtaining a confession or information, or that of punishing a person suspected of a crime - and failed to cover moral suffering, which could be even more unbearable than physical suffering.

31. Mr. YU Mengjia said that the Minister of Justice in Morocco was, as he understood, empowered to appoint judges on a provisional basis or to suspend them from office. If that was the case, could the practice be considered compatible with the principle of the independence of the judiciary?

32. The CHAIRMAN asked why the report spoke of "police custody" while Amnesty International used the expression "incommunicado custody". In the same connection, he asked whether it was true that during that period detainees could only inform their family of their detention and, consequently, had no access to a lawyer or a doctor of their choice.

33. While welcoming the obvious advances achieved by the State party since the consideration of the initial report, he asked for more information on two cases involving ill-treatment.

34. One was mentioned in paragraph 489 of the report of the Special Rapporteur and concerned two young Polisario Front sympathizers who had allegedly been arrested and charged with minor customs offences (they had apparently tried to import contraband cattle and to smuggle in cigarettes) before being released by the Court of First Instance, but the prosecutor was said to have appealed against that decision. What had been the outcome of that procedure?

35. The other case, reported quite recently by Amnesty International, concerned a young man aged 17 convicted of theft who had been placed in the adult part of a prison where he had been raped by fellow detainees. Not only had the prison warders done nothing to prevent the sexual aggression, but the prison authorities had also tried to hush up the case, so that the victim's family had only heard of it from some prisoners. Only when the family had made an official complaint had the prison authorities recognized the facts and announced that they would institute an inquiry. What had been the results of the investigation? Bearing in mind, in particular, article 16 of the Convention, had the persons who had decided to place the minor in the adult part of the prison and the warders who had failed to prevent the rape been punished or prosecuted?

36. Mr. BENJELLOUN-TOUIMI (Morocco) said he greatly appreciated the Committee's keen interest in his country's report and was convinced that the Committee's comments would prove extremely useful. In terms of the promotion and protection of human rights, Morocco was at present rather like a large building site. The law had to be reformed to conform to the obligations deriving from international treaties, and at the same time, it was necessary to change people's mentalities, a process which had to take place at the stage of training in general and of police training in particular.

37. The Moroccan delegation withdrew.

The first part (public) of the meeting rose at 11.25 a.m.

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Twenty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 381st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 6 May 1999, at 3 p.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.381/Add.1.

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Third periodic report of Italy (continued) (CAT/C/44/Add.2)

Conclusions and recommendations of the Committee

1. At the invitation of the Chairman, Mr. Abeti (Italy) took a place at the Committee table.

2. Mr. EL NASRY (Country Rapporteur) read out the following text containing the conclusions and recommendations adopted by the Committee concerning the third periodic report of Italy:

"1. The Committee considered the third periodic report of Italy (CAT/C/44/Add.2) at its 374th, 377th and 381st meetings, held on 3, 4 and 6 May 1999 (CAT/C/SR.374, 377 and 381), and has adopted the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the timely submission of the third periodic report of Italy and thanks the representatives of the State party for their good oral presentation and their collaborative and constructive attitude in the dialogue with the Committee.

B. Positive aspects

3. The Committee welcomes:

(a) the introduction in Parliament of a bill aimed at adding the crime of torture as an autonomous crime and the setting-up of a special fund for the victims of acts of torture;

(b) the introduction of a number of modifications in the regime of precautionary measures to protect arrested persons and detainees from ill-treatment or torture, such as the rule requiring that questioning outside the court has to be documented by sound or audio-visual recordings (Law No. 332 of 1995);

(c) the passing by Parliament of Law No. 40 of 6 March 1998 governing immigration and aliens which, in particular, grants aliens who are legally residing in the territory of the State party, parity with Italian citizens;

(d) the assurances contained in the report that a different and new policy of accepting foreigners is to be energetically carried forward;

(e) the consideration by the Italian Parliament of a bill that accords humanitarian protection and the right of asylum and intends to institute an organic asylum regime;

(f) the fact that foreign prisoners who are granted measures alternative to detention may also be granted temporary work permits.

C. Factors and difficulties impeding the application of the provisions of the Convention

4. While it does not underestimate the difficulties created by the presence of a large number of foreigners of different cultures and nationalities on Italian territory, the Committee expects that the new law on immigration along with the continued efforts on the part of the authorities will help ease the situation, especially since many of these foreigners had to flee their countries of origin due to severe conditions of unrest.

D. Subjects of concern

5. Despite the efforts of the authorities, the prison system remains overcrowded and lacking in facilities, which makes the overall conditions of detention not conducive to the efforts of preventing inhuman or degrading treatment or punishment. In this regard, the Committee notes with concern that reports of cases of ill-treatment in prison continued and that many of them involved foreigners.

6. The Committee is also concerned over the lack of training in the field of human rights, in particular, the prohibition against torture to the troops participating in peacekeeping operations and the inadequate number of military police accompanying them, which was responsible in part for the unfortunate incidents that occurred in Somalia.

E. Recommendations

7. The Committee recommends that:

(a) the legislative authorities in the State party proceed to incorporate into domestic law the crime of torture as defined in article 1 of the Convention and make provision for an appropriate system of compensation for torture victims;

(b) the Committee be informed of the progress and result of the judicial proceedings resulting from the incidents in Somalia;

(c) that all prisoners' correspondence addressed to international bodies of investigation and settlement of disputes be excluded from 'censor checks' by prison personnel or other authorities."

3. Mr. ABETI (Italy), on behalf of the head of the delegation, who could not be present, thanked the members of the Committee for their interest and attention.

4. The delegation of Italy withdrew.

The public part of the meeting was suspended at 3.10 p.m. and resumed at 3.45 p.m.

Third periodic report of the Libyan Arab Jamahiriya (continued) (CAT/C/44/Add.3)

5. At the invitation of the Chairman, the members of the Libyan delegation resumed their places at the Committee table.

6. Mrs. AL-HAJJAJI (Libyan Arab Jamahiriya) thanked the members of the Committee for their constructive observations and dialogue, which would give renewed impetus to the observance of human rights in her country. She welcomed the Committee's position regarding the lifting of sanctions, which had seriously curtailed the rights, for instance, to life, food and development.

7. Her delegation was disappointed that the Arabic version of the report was not yet available, but hoped that it would be published as soon as possible. Any information that had been requested by the Committee but was not immediately available would be forwarded at the earliest opportunity by the Permanent Mission.

8. Mr. TLEBA (Libyan Arab Jamahiriya), replying to some of the questions raised, said that, where conditions of detention were concerned, the law provided for regular inspections of the activities of the security forces and that it was therefore unlikely that breaches of the Convention would occur. The Jamahiriya was in no way opposed to the activities of non-governmental organizations (NGOs) and was prepared to cooperate fully with any NGO that wished to visit national prisons.

9. Legislation provided for access by detainees to counsel and to members of their family, with the sole exception, in the latter case, of the initial period of pre-trial detention, where deemed necessary by the Attorney-General for reasons of national security. Since 1997, the provisions of the Convention were taught as part of the training curriculum of prison and law enforcement personnel. National legislation provided that any individual who breached the Convention was accountable for his act. Any complaint by a detainee of torture, if confirmed by a medical report, would lead to an inquiry with a view to ascertaining responsibility. Should the victim consider that the Attorney-General's Office had failed to take appropriate action in response to a complaint he could apply directly to a judge.

10. The delegation was not in a position to respond to the request for statistics regarding the number of prisoners who had been subjected to long periods of solitary confinement or had been denied access to counsel or to family members, since no records existed of any such cases. Legislation provided that, upon expiry of a maximum of 45 days' pre-trial detention, the

detainee could apply to the Appeal Court, composed of three judges, which would decide on the action to be taken. Convicted prisoners likewise had the right of access to their lawyer while they were serving their sentences.

11. Three cases existed of allegations of torture by police officers, which had been reported to the office of the Attorney-General in accordance with the normal procedure in such cases; the judges who had been assigned to investigate the complaints had ruled that they were unfounded.

12. Libyan law did not provide for expulsion of refugees or other foreigners to their country of origin.

13. He was pleased to report that a new mechanism had been established to investigate complaints of human rights violations, including torture; it functioned within the office responsible for monitoring respect for human rights.

14. A public servant found guilty of committing an act of torture was required to pay compensation to the victim, who might also apply for reparation from the State, as the public servant's employer.

15. The prison system accorded utmost importance to rehabilitation and provided workshops and vocational training facilities in prisons; prisoners could sell what they thus produced, the proceeds being paid to them after their release, and they were better prepared to find employment upon completion of their sentence. Many prisoners benefited from the educational and cultural activities available to them.

16. In the event of any contradiction, the provisions of the Convention prevailed over those contained in domestic legislation. Torture was indeed defined as a crime under law and carried severe penalties. The law prescribed the sentences which pertained to particular offences; however, judges could invoke extenuating circumstances in order to commute, for instance, capital punishment to life imprisonment.

17. The Higher Council of the Judiciary was composed of a judge of the Supreme Court, a judge of the Appeal Court, a representative of the Department of Public Prosecutions and other judicial bodies, together with the Minister of Justice himself, who was a member of the judiciary.

18. A death sentence must be approved by the People's Congresses and a series of conditions was attached. The condemned person was permitted to meet relatives prior to execution at a place removed from the place where it was to be carried out. Facilities must be provided for the observances prescribed by the condemned person's religion. The execution must take place within a prison or other closed area. The sentence was read to all present and the condemned person had a right to make a final statement. It was stipulated that the execution must be carried out in the presence of the public prosecutor, physician, prison director, warden and defence lawyer. The punishment - hanging for civilians, firing squad for the military - could not be carried out on a religious or other holiday. In the case of a pregnant woman condemned to death, the execution of the sentence was postponed until after the delivery.

19. As a result of the mediation of friendly countries, the extradition of the two Libyan citizens suspected of being involved in the Lockerbie case had finally been approved, resulting in the lifting of sanctions. The extradition had been carried out on the understanding that the Jamahiriya firmly believed in the suspects' innocence, and that they would be accorded proper treatment and a fair trial. The economic embargo had cost the Libyan Arab Jamahiriya some US$ 26.5 billion, causing untold suffering to Libyan citizens and undermining their fundamental rights. Moreover, the sanctions had also lacked legitimacy under international law, according to a ruling of the International Court of Justice. Domestic rules governing the extradition of alleged criminals were described in paragraphs 49-53 of the report.

20. Statistics relating to torture allegations could not be provided since records were made only of confirmed cases. In future, however, the Committee would be kept abreast of any such cases brought before the public prosecutor.

21. One member had maintained that too light a sentence had been imposed in Case No. 76 of 1994 ([Para. 23 (iv) of the report]). The incident had been judged to be a minor one, and the junior police officer involved had been under pressure from his superior. The relevant jurisprudence was well developed in the Jamahiriya and the court had been in possession of all the facts. Court rulings could not be criticized since they were binding. The punishment meted out to persons convicted of committing torture depended on the severity of the case.

22. Responding to further questions put by the Committee, he said that police stations and prisons were regularly inspected by the Department of Public Prosecutions, and proper treatment of detainees was further guaranteed by continued contact between the defence lawyer and the accused. A court order was needed in order for a person to be detained; in the event of there being no accusation, the person had to be released immediately.

23. The civil, not the criminal courts, dealt with cases of forgery.

24. The Jamahiriya could boast a number of NGOs active in the human rights field, such as the Libyan Arab Committee on Human Rights in the Age of the Masses, which monitored the implementation of international human rights commitments, the Association of Barristers, the Libyan Lawyers Association, the Committee on Fundamental Freedoms and the Prosecutors' Association. Certain of those organizations cooperated on human rights questions with national and international trade unions.

25. Amnesty International had repeatedly raised the case involving the arrest of 24 persons in the Zuwarah regic four years previously. The persons concerned had been charged with causing intentional destruction to State property and preventing one of the People's Committees from holding its meetings. They had been given a fair trial, which had beern followed by an appeal. The initial ruling had been upheld in some cases and overturned in others. Defence lawyers had been present throughout the proceedings and there had been no pre-trial contact with the police.

26. Ms. AL-HAJJAJI (Libyan Arab Jamahiriya), responding to a question raised by Mr. Camara concerning the status of freedom fighters, cited the Great Green Document on Human Rights, which stated inter alia that all peoples had a right to freedom and self-determination (Principle 16) and that Libyan citizens would uphold freedom everywhere in the world and assist the oppressed (Principle 18).

27. With the recent lifting of the economic embargo, the Jamahiriya had resumed its regional and international role, including various peacekeeping activities in the Great Lakes region, Sudan and the Philippines.

28. Particularly serious crimes continued to be punishable by the death penalty. The Libyan Arab Jamahiriya had not yet signed the Second Optional Protocol on Civil and Political Rights; however, the Great Green Document on Human Rights urged Libyan society to work towards the ultimate elimination of capital punishment. A condemned person had the right to appeal, and his sentence could be commuted in the event that there was no danger to society.

29. The Jamahiriya also safeguarded a person's right to physical integrity: scientific experiments could not be conducted on a living person without his consent; and the death penalty for pregnant women was suspended until two months after the delivery.

30. Minors were not subject to capital punishment, but to a sentence of at least five years in a specialized institution for juveniles.

31. Domestic law provided for amnesty and for the commutation of sentences. A general amnesty must be issued by Parliament; a personal amnesty could, in certain cases, be issued by the competent authority. In cases of capital punishment for murder, the sentence could be commuted at the request of the father or guardian of the victim. A consensus had not yet been reached in the Jamahiriya as to whether the death penalty should be abolished, but such was the wish of the legislative authorities.

32. There were currently a number of NGOs in the Jamahiriya active in the field of human rights. They were legal entities whose role was to uncover and investigate allegations of human rights abuses and provide assistance to potential victims.

33. The Jamahiriya was currently using the media in its efforts to further the development of civil society. Human rights defenders were supported by the State, and participation in human rights organizations was encouraged.

34. In view of the economic difficulties resulting from seven years of sanctions, the Libyan Arab Jamahiriya was currently not in a position to contribute to the United Nations Voluntary Fund for Victims of Torture. Mr. Sørensen's comments would, however, be referred to the Libyan authorities at the earliest opportunity. Once the sanctions were fully lifted, the State party would be able to step up its international and regional activities.

35. The sentence of flogging was included in Libyan legislation as a deterrent, but it was not used in practice.

36. A number of Committee members had expressed concern about reports that people were dying in captivity because of ill-treatment or lack of medical

care. Libya's population of 4 million was entirely composed of Arab Muslims, with no minorities. Under Islam, torture was prohibited even against animals. As for health care, a vast network of public hospitals provided medical treatment and drugs without charge for all citizens and foreign residents; some foreigners came from neighbouring countries to take advantage of the system. If foreigners were treated free of charge, the State could not possibly deny its citizens in prison medical care. Comprehensive medical units were assigned to each police station, detention centre and prison, with a doctor on call 24 hours a day. People died in prisons all over the world. If inmates died in Libyan prisons, it could be from old age or other natural causes. A person serving a life sentence would, of course, eventually die in prison. Death in captivity was not necessarily the result of ill-treatment or lack of medical care.

37. Mr. SØRENSEN put a question concerning article 3 of the Convention. The Libyan delegation had said that the State party accepted all refugees and turned none back. The Committee had received information according to which the Libyan Arab Jamahiriya had sent some Tunisian citizens, and in particular people belonging to a movement called Al-Nahda, back to Tunisia, where they had been subjected to ill-treatment. He understood that such persons had not been considered as refugees, as both countries were members of the Arab Maghreb Union. Had such expulsions taken place?

38. The Committee had been informed that, under the national law, the State party would not execute a pregnant woman until two months after she had given birth. While the question of the death penalty did not fall directly within the Committee's mandate, inhuman and degrading treatment did. Had there been any such cases in the past 10 years?

39. Mrs. AL-HAJJAJI said she could not provided an immediate answer to the question concerning capital punishment but that the delegation would later send the information requested. Regarding the return of Tunisians, the national legislation did indeed provide protection to refugees. The Libyan Arab Jamahiriya was a party to the Convention Governing the Specific Aspects of Refugee Problems in Africa of the Organization of African Unity, which was broader in scope than the 1951 Convention relating to the Status of Refugees. On the other hand, since 1989 all citizens of the countries of the Arab Maghreb Union had been treated equally within each member State. The returned Tunisians did not have the status of refugees and had not been accorded the specific protection which came with that status. Though the Criminal Code stipulated that persons who committed crimes of a political nature could not be extradited, a number of the Tunisians in question had been convicted of criminal offences by the competent courts in Tunisia. The assertion by some that they had been persecuted as members of an opposition party was unfounded. As for the report by Amnesty International to the effect that they had been subjected to torture, the Libyans had merely handed them over to the authorities who had already convicted them, with a view to application of those sentences.

40. Mr. YAKOVLEV raised a question concerning a provision of the Code of Criminal Procedure under which detainees accused of crimes or misdemeanours against the State could be held for seven days before being sent before a prosecutor. Generally, suspects could not be held for more than 24 hours

without being indicted. What was the reason for that exception? Could the delegation provide statistics concerning the frequency with which it was actually applied?

41. An article of the Penal Code stipulated that the death penalty would be applicable to anyone who called for "the establishment of any grouping, organization or formation prohibited by law, or established, organized, administered or financed it, provided a place for its meetings, joined it, or encouraged it by whatever means, money or benefits of any kind, or from any source or person, with the intention of establishing, or preparing to establish, a prohibited grouping, organization or formation". It further provided that there should be no difference in the severity of the punishment applied to leaders and subordinates, however low the position they held, regardless of whether the organization was based in the country or abroad. Would that provision cover any organization created without prior authorization? Did the rules not differentiate between the punishments applied to actual perpetrators of offences, accomplices, and those who merely intended or attempted to carry out an infraction? Would the provision apply to any organizations established without the prior approval of the authorities, including those set up to monitor torture by State bodies or to act as political opposition parties? Finally, could the State party tell the Committee to what extent those provisions had been invoked?

42. Mr. TLEEBA (Libyan Arab Jamahiriya) said the seven-day period of detention of persons suspected of crimes against the State was applied rarely, and only in particularly serious cases, where the suspects had used armed violence to achieve their objectives. The legislature had allowed for some flexibility so as to permit the judicial police and the security services to follow up the matter and clarify the case. In any event, from the outset all procedures had to be followed under the supervision of the Department of Public Prosecutions. He believed the provision for seven-day detention had not been applied for a considerable time, but he would have to look into the matter and send more specific information to the Committee.

43. With respect to the article providing for the possibility of capital punishment inter alia for the establishment of certain organizations and groupings, he stressed that the Libyan Arab Jamahiriya was a direct democracy and that the article in question had been adopted by the people in the People's Congresses. It was used against parties which resorted to armed violence as a way of obtaining power. As for differentiation between punishments for the various types of offender, the judge would have discretionary power and would hand down sentences commensurate with the responsibility of each convicted person. Recognized and peaceful NGOs and human rights organizations, which had humanitarian objectives in line with the country's legislation and Constitution, did indeed exist and were entitled to investigate allegations of ill-treatment or torture.

44. The CHAIRMAN thanked the delegation for their answers to the questions raised.

45. The delegation of the Libyan Arab Jamahiriya withdrew.

The public part of the meeting rose at 5.00 p.m.

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COMMITTEE AGAINST TORTURE

Twenty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 382nd MEETING

Held at the Palais des Nations, Geneva,
on Friday 7 May, 1999, at 10 a.m.

Chairman: Mr. BURNS

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Third periodic report of Egypt

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.382/Add.1.

This record is subject to correction.

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GE.99-41737 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Third periodic report of Egypt (CAT/C/34/Add.11; HRI/CORE/Add.1/19)

1. At the invitation of the Chairman, the Egyptian delegation, composed of Mr. Zahran, Mr. Kalil, Mr. Fahmy, Mr. El-Beltagy, Mr. Salama, Mr. Abdel-Hamid and Mr. Abdelmoneim, took places at the Committee table.

2. Mr. ZAHRAN (Egypt) said that the third periodic report of Egypt, which had been prepared in accordance with the Committee's guidelines, contained a detailed article-by-article account of the implementation of the Convention, precise answers to questions asked by Committee members on the occasion of the consideration of the preceding report of Egypt, as well as comments on the recommendations formulated by the Committee.

3. Under article 151 of the Egyptian Constitution, international conventions, once they had been ratified and published in the Official Journal, became an integral part of Egyptian law. Any difficulties that arose in connection with the Convention's implementation were therefore not of a legislative nature; rather they were due to three major problems.

4. The first were the country's socio-economic conditions, in particular the large percentage of adults who were still illiterate and who therefore had a poor knowledge of their rights and were unable to assert them. In that connection, he drew attention to efforts made by both the Government and civil society to combat illiteracy and thus indirectly to promote human rights and individual freedoms.

5. The second major problem was terrorism, which was rampant in Egpyt. Terrorism was the reason for the continuing state of emergency, which had not yet been raised but was expected to end in the near future. Despite the state of emergency, the judicial authorities, both prosecutor's offices and courts, dealt very seriously with any breach or attempted breach of the Convention's provisions. In particular, the current situation in no way influenced the observance of the provisions of article 2, paragraph 2, of the Convention. Egypt was cooperating fully with the Human Rights Committee on all matters relating to individual cases. Nothing could justify torture, even if practised against terrorists, and independence of the judiciary was the best safeguard against such an eventuality. All efforts conducive to strengthening of the judicial authority, whether in fighting crime or in fighting terrorism, were positive. While it was true that excesses on the part of police officials were always possible, the criterion to bear in mind was the determination of the Government and the judicial authorities to end the abuses and to punish the guilty.

6. The third problem, also due to the social and economic context, was the slowness and cumbersomeness of justice, despite the Government's considerable efforts to modernize the judicial process. For example, the Ministry of

Justice had recently established an international cooperation department with a view to further improving the administration of justice, and a human rights office had been set up within the Department of Public Prosecutions.

7. In response to questions and recommendations formulated by members of the Committee in connection with consideration of the second periodic report of Egypt, the third periodic report gave a prominent place to statistics on various training programmes organized for all categories of staff, as well as to the action taken by the judicial apparatus on complaints of torture addressed to the Department of Public Prosecutions. The Committee would also find examples of judgements passed by ordinary as well as military courts.

8. In conclusion, he reaffirmed Egypt's profound devotion to the cause of human rights and fundamental freedoms and the importance his Government attached to its dialogue with the Committee.

9. The CHAIRMAN, speaking as Rapporteur for Egypt, noted with satisfaction that the Egyptian delegation included representatives from the Ministries of the Interior and of Justice, as well as from the Office of the Attorney-General. The third periodic report of Egypt, although submitted two-and-a-half years late, was on the whole in conformity with the Committee's guidelines. The fact that the report included answers to the very specific questions asked by the Committee during the consideration of the second periodic report was to be welcomed. In particular, the statistics provided and the extracts from judicial decisions relating to the crime of torture were most illuminating. Recalling article 2, paragraph 3, of the Convention, according to which an order from a superior officer could not be evoked as a justification of torture, he said that he was very pleased to note that Egyptian jurisprudence systematically confirmed that absolute principle.

10. He would appreciate a clear answer to the question of whether the definition of torture set forth in article 1 of the Convention took precedence in Egypt. If so, a problem could arise in connection with the principle of legality, since the definition contained in the Egyptian Criminal Code was confined to torture for the purpose of extracting confessions or admissions. Further, noting that the jurisprudence appeared systematically to confirm the precedence of article 2, paragraph 3, of the Convention, he asked the delegation to confirm that the provision in that paragraph did form part of domestic law and that orders from a superior officer could therefore not be invoked insofar as torture was concerned.

11. Bearing in mind article 3, he asked whether the Egyptian Government would turn back, deport or expel an individual to a country likely to extradite him or her to a third country where he or she would run the risk of being tortured.

12. Was the concept of universal jurisdiction over torture accepted or incorporated in Egyptian jurisprudence? If not, could an exception be envisaged under the Convention? For example, would Egypt consider that it was obliged to extradite or to institute proceedings if it found itself in a situation similar to that of Great Britain in connection with the Pinochet case?

13. The educational initiatives mentioned in the report were praiseworthy, but the culture of torture prevailing in the police force could not be blamed on illiteracy alone and was more likely to stem from a variety of factors. The report only indirectly addressed the recently observed phenomenon of the systematic or institutionalized use of torture; he therefore urged the delegation to confront it directly and provide specific information.

14. Noting that the Committee had focused during its consideration of the second periodic report on the authorization of long-term detention under the Emergency Act, he welcomed the release, reported by certain non-governmental organizations (NGOs), of a large number of political prisoners. However, the NGOs had also reported recent cases of torture of individuals arrested under the Emergency Act during incommunicado detention. He asked for further information on that score because the conditions created by that form of detention increased the risk of ill-treatment.

15. He was surprised at the large number of instances in which ordinary citizens had been completely arbitrarily brutalized by the police. He referred the Egyptian delegation to a report by Amnesty International and to three reports by the Egyptian Organization for Human Rights dealing respectively with the Belqas tragedy, the collective punishment meted out to the inhabitants of the village of Al-Kosheh and the difficulty of obtaining evidence of torture in Egypt. It emerged from those documents, which reviewed events over the past five years, that confessions were treated as the basis for prosecutions, encouraging a general tendency for police officers to use excessive force and even brutality to obtain them. One was also struck by the ineptitude of some investigations and by the lack of professionalism displayed in many cases: one man, for example, who had reportedly confessed to a murder under torture, had not even been released when the alleged victim had turned up alive some months later. Under those circumstances, he would welcome information about the kind of training given to officers in the lower ranks of the police force. The possibility of being investigated by the Department of Public Prosecutions did not seem to have a deterrent effect on police officers; he wished to hear the Egyptian delegation's views on that score. In the Al-Kosheh village case, the police had resorted to collective punishment and imprisonment: over 120 persons had been arbitrarily arrested and brutalized by the police as they searched for the murderer of two young Copts. Given such methods, it was not surprising that the population was unwilling to cooperate with the police.

16. Moreover, according to Amnesty International, the Secretary-General of the Egyptian Organization for Human Rights, one of the most effective Egyptian NGOs, had been arrested and detained for six days before being released on bail, apparently for publishing documents and funding the Organization. He inquired about the exact nature of the offences with which the Secretary-General had been charged and about the current status of the proceedings.

17. As capital punishment still existed in Egypt, he wished to know how capital offenders were executed and how many executions had taken place in 1997 and 1998.

18. He invited the Egyptian delegation to comment on the report of the Egyptian Organization for Human Rights describing conditions of detention in Egyptian prisons. If the information it contained was accurate, there would be incompatibility with the provisions of article 16 of the Convention.

19. According to a very recent report by the World Organization against Torture concerning violence against women in Egypt, the Penal Code discriminated against women. Police allegedly resorted to the practice of so-called hostage-taking, threatening to abduct women belonging to a suspect's household in order to obtain information. Women in custody had allegedly been threatened with sexual abuse. He stressed that rape was a form of torture and asked the delegation for clarifications.

20. The Committee took an interest in the way in which the Egyptian authorities responded to a complaint. In 1998, the Egyptian Organization for Human Rights had sent 43 allegations of ill-treatment by the police force to the Ministry of the Interior and 47 additional allegations to the Public Prosecutor. By April 1999 it had not even received an acknowledgement. Had the allegations been received and, if so, had they been considered with a view to determining whether any action should be taken? What was the general practice for dealing with complaints?

21. In addition, NGOs, particularly Amnesty International and the Egyptian Organization for Human Rights, had reported cases of deaths in police custody. Of particular note, in the context of the Belqas tragedy, was the case of Waheed El-Sayid Ahmed Abdalla, whose death in police custody had led to riots that had been brutally repressed by the security forces. Such an escalation of violence would never have occurred if regular procedures had been followed from the outset. Again, the question arose as to the professional competence of the police force. He asked the Egyptian delegation to comment on the matter and to obtain information on deaths in custody in 1997 and 1998 and on the action, if any, to which they had given rise.

22. In general, the fact that police officers behaved in an unacceptable manner raised the question of whether there was a culture of violence in some parts of the country. He urged the Government to look beyond individual wrongdoers and investigate the conditions that had led to the wrongful acts.

23. Lastly, he asked what action had been taken in response to the communication dated 5 November 1998, addressed by the Special Rapporteur on torture to the Egyptian Government, concerning a number of cases. Were there particular reasons why he had not yet been invited to visit Egypt notwithstanding his expressed willingness to do so?

24. Mr. MAVROMMATIS (Alternate Country Rapporteur) expressed satisfaction at the progress that had been made by Egypt notwithstanding the country's problems, particularly terrorism, a problem that called for vigorous albeit cautious action in order to avoid violating human rights.

25. With regard to article 10 of the Convention, he gathered from the report that a major effort was being made in the area of education and training, especially for police officers. Judicious steps seemed to have been taken to address illiteracy. He wished to know whether there was a selection procedure

for police officers based not only on their educational qualifications but also on whether they were psychologically fit to carry out their duties while avoiding abuse of authority. It was a question that arose as a matter of course in the case of ordinary police officers but also and above all in the case of investigators.

26. The report stated, in connection with article 11 of the Convention, that measures relating to interrogation rules and practices were subject to continuous monitoring. Given that, as a rule, acts of torture were committed by the police force when a person was arrested and before he or she was brought before a magistrate, he asked for examples of cases in which safeguards had been applied during questioning in order to prevent such acts. Had the Department of Public Prosecutions ever carried out checks to determine whether violations had occurred even before the victim filed a complaint - which would demonstrate that measures were indeed being taken to prevent abuse?

27. With regard to the application of articles 12 and 13 of the Convention, it might have been expected that an incident such as that involving hundreds of people in August 1998, to which the Chairman had referred, as well as other similar cases, would attract the attention of the Attorney-General and prompt him to dispatch a senior official to the site. Where such a large number of people were arrested, one wondered how the principle of the presumption of innocence could apply. That incident, and the Belqas tragedy, in which a young man was removed from his family at 2 a.m. and returned dead three hours later, showed clearly that the mishandling of a situation aroused the indignation of an entire community. In those and other cases, it was important to report the findings of investigations and the disciplinary or legal action taken thereon. He also wished to know whether it was obligatory to conduct investigations in such cases.

28. Under Egyptian law, evidence obtained by means of torture was inadmissible in legal proceedings. However, the dissuasive force of that provision would be enhanced if the Department of Public Prosecutions was the body responsible for establishing the validity of confessions. Lastly, there seemed to be grounds for arguing that the conditions in prisons, which had already been mentioned, were incompatible with the provisions of article 16 of the Convention.

29. Mr. SØRENSEN referred again to article 10 of the Convention, to which the State party attached considerable importance and on which it had presented a substantial amount of information. It was a well-known fact that, in all parts of the world, torture was most likely to occur during police custody and in particular during incommunicado detention; when the security forces were involved, the risk was even greater. Police forces had an extremely difficult task to perform and the code of conduct and esprit de corps they espoused in discharging that task were a double-edged sword. In a country such as Egypt, where incommunicado detention was practised and which had a State Security Investigation Bureau, awareness-building and training for law enforcement personnel were of paramount importance. Action should be taken at three levels: at the first level, that of decision makers and public opinion, it was important to create a "human rights culture" that rejected torture as utterly unacceptable in a civilized society and particularly incompatible with the whole of Egyptian history and tradition. The second level was that of police supervisors, whose attitude was crucial. According to paragraphs 144

and 147, officers of the State Security Intelligence Bureau had attended a course in 1994 and senior police officers had attended courses at the Centre for Human Rights: although those were laudable initiatives, only about 50 officers had benefited in all, a relatively small number for a big country like Egypt. But the third level, that of ordinary police officers who dealt with the population on a day-to-day basis, was even more important. How were they selected? Of course, they had to be able to read and write and should be of average intelligence. He would welcome information about the duration of initial training, the amount of time spent promoting awareness of human rights and the prohibition of torture, and the content of such training. Was there provision for in-service training and was such training compulsory or optional? Lastly, in the event of incidents such as those mentioned earlier, were the police officers concerned encouraged to reflect on what had occurred and on the proper procedure in the circumstances?

30. In view of the generally high risk of ill-treatment in prisons, he inquired about the training of prison staff. The quality of the relationship between warders and prisoners was in some respects more important than the physical conditions of imprisonment; proper sanitation and food were, of course, necessary but a good atmosphere in the prison often made up for a number of shortcomings. Hence the importance of knowing how warders were selected, trained and remunerated; if their employment conditions were conducive to self-respect, they would tend to respect the prisoners. Awareness-building among medical staff was also very important. Doctors played a prominent role in torture, either, he was sorry to say, by participating directly or, at a later stage, by falsifying medical or autopsy certificates or by treating the victims. Did university medical curricula cover the prohibition of torture and were forensic doctors and psychiatrists given special training in the subject? In 1997, 225 torture victims had received compensation, which was a high figure. He drew attention to the existence in Egypt of a rehabilitation centre for torture victims, funded by the Danish International Development Agency (DANIDA). Demonstrations of willingness to provide redress were important for victims and the Government could make such a gesture on the occasion of United Nations Day in Support of Victims of Torture by contributing to the United Nations Voluntary Fund for Victims of Torture.

31. Mr. CAMARA, referring to article 11, said that, although there seemed to be numerous administrative, legal and scientific guarantees in Egypt, two had not been mentioned in the report, namely a suspect's right to request the assistance of counsel during police custody and to be examined by a doctor. What was the position in the State party with respect to those guarantees?

32. The principle of inadmissibility of evidence obtained through torture was recognized in Egypt, as attested, in particular, by diverse Court of Cassation rulings mentioned on pages 37 and 38 of the report. It should be noted, however, that the second part of article 15 of the Convention further required that the torturer should be prosecuted when evidence had been extorted by such unlawful means. It would therefore be interesting to know whether, in cases where such acts were found to have occurred, they could be used in practice to bring a torturer to justice.

33. Mr. YAKOVLEV said that other States parties should take the second part of the Egyptian periodic report as a model. Considerable progress had been made in Egypt, as evidenced by the release of thousands of prisoners in 1998

and the award of compensation by the courts to hundreds of torture victims. Those practical measures, which would improve the political climate in the country, were all the more welcome in that legislative enactments by States parties were not always translated into practical action.

34. However, a number of matters still gave cause for concern. For example, the 1981 Emergency Act, which was still in force, authorized pre-trial detention for up to 90 days, following which the courts could order the release of detainees. But according to Amnesty International, the security forces occasionally ignored such orders: he asked what measures were taken in such cases and expressed the hope that the Emergency Act would soon be repealed. By definition, legislation enacted to address exceptional circumstances should not become the rule.

35. Turning to the issue of impunity, he said that the Committee would like to know whether any officers of the State Security Intelligence Bureau had been found guilty of acts of torture and punished. The fight against terrorism was admittedly an extremely hard task for such front-line officers but the associated risk of abuse of authority underscored the need for vigilance.

36. Lastly, he asked for additional information about the work of the Office of Human Rights in the Department of Public Prosecutions and its influence in countering the use of torture, and for some concrete examples of evidence deemed inadmissible by the courts on the grounds that it had been obtained by means of torture.

37. Mr. YU Mengjia said he understood that the security forces did not always respect judicial decisions. How did the State party deal with conflict situations of that kind? In addition, the sentences imposed in cases of torture by law enforcement officers were reportedly too lenient, the maximum sentence being one year's imprisonment and a fine of 200 Egyptian pounds. He wished to know whether those reports were true. If they were, the State party should amend the relevant provisions so that the penalty for torture was commensurate with the seriousness of the offence. Lastly, he inquired whether there had been cases in which, under pressure from a superior, officers had used torture to extort confessions from detainees in order to demonstrate their efficiency to the superior officer. Had such questions been raised in training courses for law enforcement personnel and had ways of addressing the problem been discussed?

38. Mr. SILVA HENRIQUES GASPAR requested more detailed information about the penalty of hard labour for certain serious offences mentioned in the report.

39. The CHAIRMAN (Country Rapporteur) asked whether corporal punishment was used as a disciplinary measure in prisons. If so, he would appreciate information about the nature of the punishment and statistics, especially concerning the frequency of its use, covering the past two years. He thanked the delegation for its participation and invited it to return later in the session to reply to the questions raised.

40. The Egyptian delegation withdrew.

The public part of the meeting rose at noon.

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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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COMMITTEE AGAINST TORTURE

Twenty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 383rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 7 May 1999, at 3 p.m.

Chairman: Mr. BURNS

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Second periodic report of Luxembourg (continued)

Second periodic report of Morocco (continued)

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GE.99-41763 (E)

The meeting was called to order at 3. p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Second periodic report of Luxembourg (continued) (CAT/C/17/Add.20)

Conclusions and recommendations of the Committee (CAT/C/XXII/Misc.9/Add.5)

1. At the invitation of the Chairman, Mrs. Pranchère-Tomassini, Mrs. Clemang and Mr. Nicolay (Luxembourg) took places at the Committee table.

2. Mr. SILVA ENRIQUES GASPAR (Country Rapporteur) read out the conclusions and recommendations adopted by the Committee concerning the second periodic report of Luxembourg (CAT/C/XXII/Misc.9/Add.5):

"1. The Committee considered the second periodic report of Luxembourg (CAT/C/17/Add.20) at its 376th, 379th and 383rd meetings, held on 4, 5 and 7 May 1999 (see CAT/C/SR.376, 379 and 383) and adopted the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the second periodic report of Luxembourg and the oral report by the representatives of the State party. It noted, however, that the report was submitted six years late.

B. Positive aspects

3. The Committee takes note of the following positive aspects:

(a) The formal abolition of the death penalty;

(b) Legislation concerning the entry and residence of foreigners, which prohibits the expulsion or return of a foreigner if he is in danger of being subjected to acts of torture or cruel, inhuman or degrading treatment in another country;

(c) The proposed amendments of criminal legislation relating to: (i) the characterization of torture as a specific offence; (ii) amendment of the law on extradition in order to bring it into line with article 3 of the Convention; (iii) establishment of universal competence concerning acts of torture; and (iv) improvement of guarantees for persons held in custody.

C. Factors and difficulties impeding implementation of the Convention

4. The Committee has noted no factor or difficulty impeding the effective implementation of the Convention for the State of Luxembourg.

D. Subjects of concern

5. The Committee is concerned about the following:

(a) The length and frequent use of strict solitary confinement imposed on detainees and the fact that this disciplinary measure may not be the subject of appeal;

(b) The situation of young offenders held in Luxembourg prison;

(c) The disciplinary regime imposed on minors held in socio-educational centres;

(d) The fact that the report did not cover all articles of the Convention, particularly articles 11, 14, 15 and 16.

E. Recommendations

6. The Committee recommends that the State party should:

(a) Adopt the legislation defining torture in accordance with article 1 of the Convention, and consider all acts of torture as a specific offence;

(b) Introduce into law the possibility of an effective appeal against the most severe disciplinary measures imposed on detainees and reduce the severity of these measures;

(c) Put an end as soon as possible to the practice of placing young offenders, including minors, in the prison for adults;

(d) Ensure that the obligations arising from articles 11, 12, 14 and 15 of the Convention are duly respected; and

(e) Submit its third and fourth periodic reports, due on 28 October 1996 and 28 October 2000 respectively, by 28 October 2000 at the latest."

3. Mrs. PRANCHÈRE-TOMASSINI (Luxembourg) assured the Committee that the competent authorities would be informed as soon as possible of its conclusions and recommendations.

4. The delegation of Luxembourg withdrew.

Second periodic report of Morocco (continued) (CAT/C/43/Add.2)

5. At the invitation of the Chairman, Mr. Benjelloun-Touimi, Mr. Belmahi, Mr. Habib Belkouch and Mr. Majdi (Morocco) took places at the Committee table.

6. The CHAIRMAN invited the delegation of Morocco to respond to the questions raised at the Committee's 380th meeting.

7. Mr. BENJELLOUN-TOUIMI (Morocco) said that Morocco was reluctant to respond to questions concerning the Western Sahara because of the sensitive

negotiations taking place in the United Nations on a settlement plan and the holding of a referendum by July 2000. The issues raised by the Committee would certainly be covered in the settlement plan.

8. The Moroccan Penal Code and Code of Criminal Procedure were under review. All matters relating to police custody and incommunicado detention would be brought into line with the provisions of the Convention. In addition, a new Prison Code would shortly be discussed in Parliament.

9. Mr. BELMAHI (Morocco) said that the Committee's comments and suggestions provided valuable support for his country's efforts to update its legislation.

10. All decisions by the administrative courts concerning natural or legal persons were open to appeal and could be revoked on grounds of abuse of official authority. Appeals must be lodged within six days of publication of the decision or of notification by the party concerned. The first decision by the administrative courts, adopted in March 1995, had been directed against the Minister of Justice.

11. The military courts heard cases involving offences committed by or against members of the armed forces or in which armed forces personnel were co-perpetrators or accomplices, offences against the regulations governing weapons, and offences committed by civilians against the external security of the State. That last category of offence was covered not by the Code of Military Justice but by articles 180 to 200 of the Penal Code and two Appeal Court judges sat alongside the judges of the military court. The president of the military court was always a civilian and its hearings were held in public. Appeals lay to the Criminal Chamber of the Appeal Court. The role of the military courts was being scaled down, especially for offences against external security. A case in point was the armed attack by individuals of dual Moroccan and Algerian nationality on the Atlas Asni Hotel, an incident which had claimed the lives of two Spanish tourists. Although the perpetrators had been charged, inter alia, with offences against external security, the case had been heard by a civilian court.

12. With regard to investigations of allegations of torture and the right of complaint, the relevant judicial procedures were described in the report. However, the administration also conducted investigations. For example, following a fire at Oukacha prison in Casablanca in 1997, the Minister of Justice had requested the Office of the Public Prosecutor to open an investigation in order to establish the cause of the fire and whether a criminal offence had been committed. The examining magistrate of the Court of Casablanca had dismissed the proceedings and the Minister had appealed against his decision through the Office of the Public Prosecutor, calling for greater transparency. The Appeal Court had endorsed the decision of the examining magistrate and the Minister had appealed to the Supreme Court, which was currently hearing the case.

13. With regard to Amnesty International's allegation of sexual abuse of a 17-year-old boy, Hichem Chekroun, in Oukacha prison in January 1999, Mr. Chekroun had not been transferred to the adult wing of the prison. The attacker was a 19-year-old inmate who had shared his cell. When news of the incident had reached the Moroccan media, the Prison Authority had set up a commission of inquiry, which had referred the case to the Office of the Public

Prosecutor of Casablanca. Four prison officials had been prosecuted as co-perpetrators or accomplices. Two were in custody and two had been released on bail.

14. Three police officers had been sentenced to terms of imprisonment ranging from 3 to 12 years in the case of Hamid Mourabet, who had died in police custody in 1996. Three police officers were also being prosecuted in connection with the death in police custody of Houssein Al-Mernissi in 1997. In the case of Youssef Rami, who had died in hospital following an assault in a police station in 1996, the examining magistrate had decided to terminate the inquiry but the Office of the Public Prosecutor had demanded that the investigation of three police officers should be continued. The Committee would be kept informed of developments. Lastly, Rabat Appeal Court had sentenced a police officer in July 1998 to 10 years' imprisonment for torture and ill-treatment of a detainee.

15. Numerous circulars calling for full respect for the rule of law had been sent by the Ministry of Justice to the Office of the Public Prosecutor, by the Ministry of the Interior to the Director-General of the Police Department and by the Director-General to police commissioners. The Police Department ran training courses to generate awareness of human rights among law enforcement officers and published a journal, La Sûreté nationale, concerning legal, social and cultural issues of relevance to the police force. The Convention had been published in one of its 1987 issues in Arabic and English.

16. Many of the complaints received by the Ministry of Human Rights were from individuals who were unfamiliar with the existing judicial remedies. Prisoners approached the Ministry with requests for amnesty or for transfer to prisons closer to home and with complaints of ill-treatment by prison warders. The Ministry had taken steps to rehabilitate former detainees, especially political prisoners, and reintegrate them into society, for example by regularizing their administrative files and providing them with certificates for free medical treatment. The Ministry responded at once to allegations of human rights violations in the media or emanating from NGOs. Whenever there was a death in custody, it wrote to the Ministry of Justice requesting an autopsy.

17. A reform of the police custody regime had been proposed. Under the existing Code of Criminal Procedure, the police were required to inform the family of an arrested person of his whereabouts and to provide the Principal Crown Prosecutor with a daily list of persons taken into custody during the preceding 24 hours. A medical examination could be ordered by the judge or demanded by the arrested person. Article 10 of the Constitution stipulated that no one could be arrested, detained or punished except in such circumstances and in accordance with such procedures as were prescribed by the law. Under article 27 of the Criminal Code, illegal or arbitrary detention was punishable by disqualification from office.

18. Prison reform was one of the fields in which the most headway had been made. On 4 May, just a few days earlier, the legislation and human rights commission of the Chamber of Representatives had approved a Prisons Bill which included a number of amendments suggested by human rights experts and NGOs.

The Bill was currently being referred to the legislation and human rights commission of the Chamber of Councillors. By July it would be presented before the entire Parliament and, if adodpted, would become law.

19. Of course there were problems in Moroccan prisons, and especially material difficulties such as overcrowding. Although there was no lack of political will to improve the situation, the country simply did not have sufficient means. The Ministry of Justice was continuing its efforts to preserve the dignity of inmates, for example by installing telephone lines in the prisons, by organizing on an experimental basis family visits in pleasant surroundings with respect for privacy, and by building new facilities and enlarging and modernizing existing ones so as to reduce overcrowding. NGOs had taken part in the renovation of certain places of detention, including the Oujda prison in north-eastern Morocco.

20. The Arabic version of the first draft of the Prisons Bill was available to the Committee members for information. As soon as it was adopted, the delegation would send it to the Committee in its final form for examination.

21. One main point in the Prisons Bill was the classification of facilities with a view to rehabilitating prisoners, the aim being to provide an appropriate environment for each individual's vocational training and integration into society. For example, some facilities would provide agricultural training for inmates from rural areas, while others would have woodworking shops to train carpenters, and special programmes would be set up for minors. The Bill provided that prisoners' rights and obligations should be clearly posted, and should be explained to illiterate inmates by social workers employed by the prison administration.

22. Questions had been raised concerning solitary confinement, which could be imposed either for security reasons or as a disciplinary measure. In the former case any decision by a prison warden to place an inmate in solitary confinement had to be brought to the attention of the Director-General of the Prison Authority, who would ensure that the decision was properly taken. The inmate concerned was entitled at least twice a week to see the prison doctor, who could order discontinuation of the measure. Solitary confinement could not generally exceed three months' duration, but in exceptional cases it could be extended with the consent of the Director-General of the Prison Authority and the prison doctor. Apart from the isolation from other prisoners, the penitentiary regime was the same as that applied to other inmates.

23. When solitary confinement was resorted to as a disciplinary measure, the Bill attempted to respect a golden rule of criminal procedure, namely that of proportionality between the infraction and the penalty, which might be no more than a simple warning. Isolation could not exceed 45 days' duration and could not be applied to minors. The decision to impose it, which must be in writing and was subject to appeal, was taken by a disciplinary committee after it had heard the prisoner and any witnesses cited by him or by the administration. Prisoners placed in solitary confinement were allowed to maintain contact with their lawyers.

24. The Bill also provided for the continuation and enhancement of vocational activities, training and education and exceptional granting of prison leave for seven days or less, with the aim of maintaining family ties or of preparing the inmate for integration into society at the end of the sentence. For details of health care provisions Committee members could refer to articles 123-139 of the first draft of the Bill.

25. Another query concerned compensation, and specifically whether persons not cited among the 112 names mentioned by the Advisory Council on Human Rights had any entitlements under the law. That list covered only cases of enforced disappearance; it did not concern persons who had previously been reported missing but had since been released and were currently free. For example, among the 112 on the list, there were 34 who had been reported missing in one locality. In the same place, 28 had been released in 1991 and were currently at large. They received monthly compensation equivalent to some $500 per month, or approximately the monthly salary of a high public official. Other persons who had been reported missing were not receiving monetary compensation, but had had help in being reinstated in their former jobs. All such cases were considered by an arbitration board set up by the Advisory Council on Human Rights.

26. Apart from any material considerations, Morocco had the moral obligation to comply with the provisions of the human rights instruments which it had ratified. As soon as a human rights convention was signed, ratified and published, it had primacy over domestic law and regulations. The only question that remained was how to ensure that its provisions were legally applied at all levels, and the best answer was through education.

27. Mr. HABIB BELKOUCH (Morocco) thanked the Committee members and the international NGOs which had forwarded their reports to the Moroccan delegation with the aim of ensuring a more substantive discussion. He hoped the very useful procedure of frank and objective dialogue for the benefit of human rights would continue.

28. A number of NGOs and Committee members had referred to the matter of how to bring Moroccan law into line with the Convention against Torture. Clearly, the pace of legislative change was not commensurate with the wishes of the Committee members, of the NGOs advocating a State based on the rule of law, or of the Moroccan Government itself, which was making a serious effort to bring national law into conformity with international conventions. While the Penal Code already provided sanctions for any abuse of power or arbitrary acts depriving persons of their freedom, the Government was working to make it more just and to adapt it to the requirements of the Convention, notably by drawing up a definition of the crime of torture.

29. Revision was badly needed throughout the national legislation. For example, the Prisons Bill was due to replace an Act dating from 1930. In revising such laws, the Government worked closely with Moroccan NGOs. One such organization, the National Children's Rights Observatory, had provided an article-by-article commentary on the revision of laws concerning children's rights, which had been extremely helpful. The Ministry of Human Rights had also submitted to the Government a draft law on imprisonment for debt, aimed at bringing domestic legislation into line with article 11 of the International Covenant on Civil and Political Rights.

30. The Government was convinced that the current procedures would be effective in bringing national legislation into conformity with the country's international obligations, and meanwhile was grateful to the Committee for it proposals and suggestions.

31. In the practical sphere, the Moroccan justice system had been known for its slow functioning in the past. The High Council of the Magistrature and the current Government had taken various administrative and practical measure to improve the situation.

32. The main objectives of the Prisons Bill were to make prisons into more humane places and to open them up to civil society, for example by enabling NGOs to have access to all the country's prisons so they could investigate specific allegations of illtreatment and conduct cultural and medical care activities for the benefit of inmates. Such investigations had already begun for example the Moroccan Organization for Human Rights had recently carried out an independent inquiry into three deaths at one prison, and had issued it own report.

33. Should the Committee on Torture so desire, it too would be welcome to send a mission to inspect Moroccan prisons, where the situation was clearly far from ideal. As in many developing countries, there were substantial material needs, the staff required training, and the inmates' standard of living must be improved. Already in the current year the Moroccan authoritie were working with Penal Reform International to train prison staff and to improve the situation of minors in prison. Any further cooperation from NGOs or any other bodies would be most welcome in tackling those problems.

34. Some of the recent reforms to Moroccan legislation included provision for alternative sentences such as community service for persons convicted of lesser offences, including minor debts. The confinement of such persons was not in society's interest.

35. In the field of education, the Ministry of Human Rights had drawn up a national plan. It had initiated the revision by experts and NGO consultants of over 120 primary and secondary school textbooks, with a view to inculcatin the main principles of human rights. The revised texts were to be introduced on a trial basis in five regions, where the Ministry had also held a number o train-the-trainers sessions. However, human rights involved the whole of society, and could not be introduced by decree. In the past year and a half, the Ministry had come to realize that they could not be disseminated solely through educational specialists working in the schools, but required a wide range of activities, including events organized by NGOs, poster displays and other exhibits. In the past year alone, some 20 such events had been organized in the region of the capital.

36. Working with UNESCO, the Ministry had established two chairs at universities, and several universities had set up human rights training and research units. In addition, the previous month, the United Nations High Commissioner for Human Rights had signed an agreement with the Ministry of Human Rights for the creation in Rabat of a national human rights documentation, study, and information centre for the use of law enforcement officers, NGOs and other groups, including teachers and medical professionals

37. The Moroccan authorities were conducting a human rights awareness campaign which included the production of a two-volume book distributed in some 20,000 copies, the first volume containing the texts of all human rights instruments ratified by the country and the second being devoted to humanitarian law.

38. A ten-day regional seminar on human rights training was currently being held in Morocco by the Ministry of Human Rights and the Arab Institute for Human Rights, based in Tunis. The Government considered such activities an essential element in the campaign for human rights.

39. Mr Bentelloun-Touimi (Morocco) said that, in regard to harmonization of legislation, considerable efforts were being devoted to reforming the Penal Code and the Code of Criminal Procedure, while at the same time a task force, headed by an emminent professor of criminal law was engaged in drafting new legislation that complied with international instruments, including the Convention against Torture. The drafts would shortly be submitted to the Government and subsequently to Parliament. The statistics requested were available, since they served as a basis for future policy and were in the public domain.

40. In response to a question by Mr.González Poblete, he said that a subordinate who had committed an act of torture and his superior who had ordered him to do so were both liable to prosecution. He believed that members of the armed forces were tried by a military court, regardless of the nature of the offence.

41. The CHAIRMAN thanked the delegation of Morocco for their replies to the Committee's questions.

42. The delegation of Morocco withdrew.

The public part of the meeting was closed at 4.45 p.m.

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COMMITTEE AGAINST TORTURE

Twenty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 384th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 10 May 1999, at 10 a.m.

Chairman: Mr. BURNS

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Second periodic report of Liechtenstein

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.384/Add.1.

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GE.99-41789 (E)

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Second periodic report of Liechtenstein (CAT/C/29/Add.5)

1. At the invitation of the Chairman, Mr. Frick and Mr. Langenbahn (Liechtenstein) took places at the Committee table.

2. Mr. LANGENBAHN (Liechtenstein) said that an important new development from the standpoint of the Convention had been the entry into force in July 1998 of the Admission of Asylum-Seekers and Persons in Need of Protection Act, an instrument that strengthened the basis for compliance with article 3 of the Convention by explicitly stating the principle of non-refoulement of an individual to a country where he or she ran the risk of being tortured. Under the new Act, Liechtenstein was currently affording temporary protection to almost 400 refugees from Kosovo. Consideration of applications for asylum had been suspended for the protection period but would subsequently be resumed. In addition, Tibetan asylum-seekers had been granted asylum and were now entitled to stay in Liechtenstein.

3. Liechtenstein had also signed the Statute of the International Criminal Court and was preparing to ratify it. It was a party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. A mission of the European Committee for the Prevention of Torture would visit Liechtenstein in 1999 to investigate conditions of detention at the country's only prison in Vaduz.

4. The CHAIRMAN, speaking as Country Rapporteur, welcomed the rapid implementation by Liechtenstein of the recommendations made by the European Committee for the Prevention of Torture in the report on its first visit to the prison.

5. He wished to know whether the draft legislation on cooperation with the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, mentioned in paragraph 18 of the report, had been adopted by the Parliament and promulgated.

6. He asked whether, under the compulsory health insurance scheme described in paragraph 42 of the report, detainees could have access to a doctor of their own choosing or whether they had to make do with an officially assigned doctor.

7. According to paragraph 46 of the report, nobody could be held incommunicado during pre-trial detention and the examining magistrate authorized detainees to have contact with anybody they pleased unless such contacts resulted in prejudice to the purpose of pre-trial detention. Did that mean that for a certain period detainees had contact only with the examining magistrate and could not see their lawyers - which would be tantamount to incommunicado detention?

8. What was to be understood by the word "collusion" in paragraphs 50 and 59 of the report, which stated that contacts between a detainee and his lawyer were monitored when there was a risk of collusion? Where there was no such risk, what was the duration of pre-trial detention? Noting with surprise that, where there was a risk of collusion, such detention could continue for

two years, depending on the seriousness of the offence of which the detainee was suspected, he asked when the provisions had been enacted and whether they were still in force.

9. In cases where, pursuant to an agreement, persons sentenced by courts in Liechtenstein were sent to serve their sentences in an Austrian prison, which of the two countries would be held responsible and have to compensate a detainee who had been subjected to ill-treatment in an Austrian establishment?

10. How many women and juveniles were held in the Liechtenstein prison? Were they segregated from adult males? Had measures been taken to ensure that women detainees were supervised by women and that juveniles were monitored by experienced persons?

11. He commended the way in which Liechtenstein had assumed its responsibilities regarding asylum and welcomed the fact that the Tibetan asylum-seekers mentioned during the Committee's consideration of the initial report had been granted asylum.

12. As Liechtenstein was a party to the Convention, under which it was required to exercise universal jurisdiction, and was preparing to ratify the Statute of the International Criminal Court, which would exercise universal jurisdiction over a variety of crimes, it would be interesting to know whether the State party would declare its jurisdiction if a torturer who was a national of a State party to the Convention and had committed such a crime outside Liechtenstein was present in its territory.

13. Mr. YU Mengjia (Alternate Country Rapporteur) asked what subjects had been discussed at the meetings between members of the European Committee for the Prevention of Torture and the national officials mentioned in paragraph 25 and what was the content of the new proposals made in that context. He also asked whether, apart from the information provided in the report, there had been any new developments in respect of the improvement of conditions of detention in Vaduz prison.

14. Mr. SØRENSEN asked whether Liechtenstein, like some other countries, operated a system of solitary confinement, whereby prisoners were allowed to see their lawyer but were cut off from their family and other prisoners and deprived of access to radio and television. If so, what was the maximum duration of such confinement and was it subject to review?

15. He thought that paragraph 46 of the report should have mentioned the Committee against Torture among the bodies to which detainees could send uncensored correspondence, given that Liechtenstein had accepted the obligations imposed by article 22.

16. Lastly, he noted with satisfaction that Liechtenstein regularly made sizeable contributions to the United Nations Voluntary Fund for Victims of Torture.

17. The delegation of Liechtenstein withdrew.

The public part of the meeting rose at 10.30 a.m.

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COMMITTEE AGAINST TORTURE

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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 385th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 10 May 1999, at 3 p.m.

Chairman: Mr. BURNS

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Third report of the Libyan Arab Jamahiriya (continued)

Third report of Egypt (continued)

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.385/Add.1.

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GE.99-41815 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Third report of the Libyan Arab Jamahiriya (continued) (CAT/C/44/Add.3)

Conclusions and recommendations of the Committee (CAT/C/XXII/Misc.9/Add.6)

1. At the invitation of the Chairman, Mr. TLEBA and Ms. AL-HAJJA (Libyan Arab Jamahiriya) resumed their places at the Committee table.

2. The CHAIRMAN invited the Country Rapporteur to read out the conclusions and recommendations adopted by the Committee concerning the third periodic report of the Libyan Arab Jamahiriya (CAT/C/44/Add.3).

3. Mr. SØRENSEN (Country Rapporteur) read out the following text:

"1. The Committee considered the third periodic report of the Libyan Arab Jamahiriya (CAT/C/44/Add.3) at its 378th, 381st and 385th meetings, held on 5, 6 and 10 May 1999 (CAT/C/SR.378, 381 and 385) and has adopted the following conclusions and recommendations:

A. Introduction

2. The Committee welcomes the timely submission of the report prepared in accordance with the guidelines of the Committee. Likewise, the Committee welcomes the oral report of the representatives of the State party and the dialogue with them.

B. Positive aspects

3. The Committee wishes to reiterate its satisfaction, expressed in its conclusions when dealing with the State party's second periodic report, that the legal provisions of the State party generally conform with the requirements of the Convention.

4. Progress has been made in the efforts to improve education and information regarding prohibition against torture in the training of law enforcement personnel as well as medical personnel.

5. The Committee notes with satisfaction that application of corporal punishment has not been used in recent years.

C. Factors and difficulties impeding the application of the provisions of the Convention

6. The effect of the embargo on the State party, in force since 1992, which has not been lifted completely, causes severe difficulties in its economic and social life. However, such difficulties may not be invoked as justification for breaches of the provisions of the Convention, especially articles 1, 2 and 16.

D. Subjects of concern

7. It is a matter of concern for the Committee that neither the report nor the information given orally by the representatives of the Libyan Arab Jamahiriya provided the Committee with comments and answers that addressed substantially the subjects of concern indicated and the recommendations made by the Committee when dealing with the second periodic report of the State party in 1994. Consequently, the Committee reiterates inter alia the following subjects of concern:

(a) Prolonged incommunicado detention in spite of the legal provisions regulating it still seems to create conditions which may lead to violation of the Convention;

(b) The fact that allegations of torture in the State party continue to be received by the Committee.

8. It is a matter of concern for the Committee that, in practice, the State party had, in one incident, extradited persons to a country where there are substantive grounds for believing that they are in danger of being subjected to torture. The Committee did not agree with the State party that it was legally obliged to do so.

9. It is also a matter of concern that the wording of article 206 of the Penal Code could be an obstacle to the creation of independent human rights non-governmental organizations.

E. Recommendations

10. The Committee encourages the Libyan Government to consider making the declarations provided for under articles 21 and 22 of the Convention.

11. It also recommends that the law and the practices of the State party be brought in line with article 3 of the Convention.

12. The Committee further recommends that the Libyan authorities guarantee the free access of a person deprived of his liberty to a lawyer and to a doctor of his choice and to his relatives at all stages of detention.

13. The State party should send a clear message to all its law-enforcement personnel that torture is not permitted under any circumstances. In addition, those who committed the offence of torture should be subjected to a prompt and impartial investigation and rigorously prosecuted in accordance with the law.

14. Although corporal punishment has not been practised in recent years, it should be abolished by law."

4. Mr. TLEBA (Libyan Arab Jamahiriya) said he had been under the impression that the delegation had already answered the Committee's concerns. Perhaps it had not been clear from the interpretation that the isolated cases of torture

which had occurred had in no way been sanctioned by Libyan law. Ever eager to serve the cause of human rights, the Jamahiriya would be sure to implement the Committee's recommendations.

5. The CHAIRMAN thanked the delegation for its willingness to engage in constructive dialogue with the Committee.

6. The delegation of the Libyan Arab Jamahiriya withdrew.

The meeting was suspended at 3.15 p.m. and resumed at 3.30 p.m.

Third report of Egypt (continued) (CAT/C/34/Add.11)

7. At the invitation of the Chairman, the members of the delegation of Egypt resumed their places at the Committee table.

8. The CHAIRMAN invited the delegation of Egypt to respond to the questions put to it by the Committee at its 382nd meeting.

9. Mr. KHALIL (Egypt) said that the delegation would do its best to answer the Committee's questions orally. Additional written information would also be submitted, including police circulars from the Ministry of the Interior, prison inspection reports and information on conditions and medical care in prisons.

10. He had been somewhat taken aback by one question put by the Chairman. The reason the report had not addressed the question of whether torture was systematic in Egypt was that such allegations were totally groundless. Egypt was a democratic country governed by the rule of law, and its Government strove to ensure that its Constitution and other laws were respected. Every effort was made to comply fully with the Convention and other international instruments to which Egypt was a party.

11. While, as in all countries of the world, the occasional case of human rights abuse did occur, such abuses were far from being systematic. The Egyptian legal system, which had been praised by the Committee, provided the proper means for redress, and that was the criterion by which the country should be judged.

12. The Government was keen to supply the Committee with information it might need to investigate allegations of torture and in the meantime would continue its own investigations in cooperation with the competent governmental bodies and non-governmental organizations (NGOs). The latter were encouraged to take the Government to task in an atmosphere of transparency of which the Government was proud.

13. Egypt's two previous periodic reports had dealt in some detail with the incorporation of the Convention into domestic legislation. Following lengthy debate in connection with the Shari'a (Muslim code of religious law), the Court of Cassation had ruled that the Convention should prevail, if need be, over domestic law and that the term "torture" should be interpreted according to the definition contained in the Convention. The Penal Code made specific reference (in article 126) to the crime of torture, without any distinction as

to form. It was the responsibility of the court to determine on a case-by-case basis the extent of the pain or suffering inflicted and to fix the penalty accordingly. The crime of torture was punishable even if no attempt had been made to extract a confession, or if the confession obtained was proved correct. Punishment ranged from 3 to 10 years' imprisonment and could be even more severe if the torture resulted in the death of the victim. The Penal Code was continually being extended and updated, inter alia to cover the use of intimidation to inflict mental or physical harm, coercion to act against the law, the use of force against women and minors, and rules governing the use of firearms.

14. There had been no cases of repatriation or extradition of a person to a country in which he would be at risk from torture. Egypt complied fully in that regard with the relevant provisions of the Convention and any applicable bilateral agreements.

15. Egypt fully respected the provisions on universal jurisdiction of all international instruments to which it was a party, since those instruments were incorporated directly into national law.

16. Although confessions were commonly used in criminal convictions, the Attorney-General was obliged to ensure that they were both credible and voluntary, and to corroborate them with medical and other evidence.

17. His delegation wished to provide additional information concerning Egypt's Emergency Act (paragraphs 139 and 181 of the report) which was applicable if the stability and security of society were threatened by terrorism. The President of the Republic could declare a state of emergency only with the approval of Parliament. The legislative authority had the right to extend the state of emergency in the interests of the public, but the Constitution and Penal Code were not subject to suspension.

18. The periodicity of review of emergency detention had been reduced from six months to one month, and any complaints were addressed to the judiciary rather than, as before, to the President (paragraph 66 of the report). Only persons who posed a serious threat to security were arrested. They were detained in facilities determined by law and enjoyed the same privileges and rights as other prisoners. Detainees had the right, inter alia, to be told the grounds for their arrest, to inform a person of their choice that they had been detained, and to have access to legal counsel from the moment of their arrest.

19. Penal legislation provided for differentiated treatment of women only when they were the victims of rape, abortion, murder or other crimes which were considered to be particularly grave when perpetrated against women and carried severe sanctions. A provision exempting from punishment a man who had kidnapped and raped a woman but subsequently married her had recently been repealed. There was no discrimination against women in the penal law, in the Constitution or in any other area of legislation. If proven, the kidnapping by the police of women in order to bring pressure to bear upon their husbands was categorized as a crime.

20. Egypt had already replied to some of the cases raised by the Special Rapporteur on 5 November 1998 and inquiries were continuing in regard to the remainder. His government had not refused to receive the Special Rapporteur on torture; it was simply a matter of agreeing on dates that were convenient to all in order to ensure the success of his visit.

21. In reply to the question posed by Mr. Mavrommatis, a periodic review of the rules of investigation was conducted at the level of the Attorney-General's Office and the police authorities with a view to closing loopholes in the investigation process. A new requirement had recently been introduced that police officers and their subordinates and other public authority representatives must identify themselves in conducting any work or procedure; failure to do so entailed disciplinary penalties.

22. In reply to Mr. Camara's question, he confirmed that criminal evidence was disregarded if it had been obtained under duress, regardless of whether or not it was true, and an inquiry would be instituted.

23. In reply to the question raised by Mr. Yakovlev and Mr. Yu Mengjia about the contradiction between the decisions of the judicial authority and that of the Ministry of the Interior regarding the renewal of detention under the emergency law, he said that only persons who were considered to be a danger to society could be arrested, as a temporary preventive measure, and only in exceptional circumstances. Any judicial decision that was issued must be fully implemented and any act violating such a decision was a punishable offence. Detention could be renewed only if, upon their release, the detainees engaged in the same dangerous activities which constituted a threat to the stability of society.

24. The Egyptian delegation had submitted samples of the internal circulars on the subject of the investigative methods employed by the Ministry of the Interior.

25. Mr. EL-BELTAGY (Egypt) introduced some of the mechanisms and regulations that had been adopted by the Ministry of the Interior to protect human rights in Egypt. The Ministry had instituted legal procedures to deal with violations committed by its employees. The Monitoring and Inspection Department was responsible for monitoring the behaviour of employees to avoid any violation of human rights and fundamental freedoms and for examining complaints and subsequently reporting to the Minister. Complaints of violations of human rights and fundamental freedoms by employees of the Ministry, all of whom were under the authority of the Attorney-General would be investigated personally by him. Prisons were controlled by an administrative and legal system in order to ensure compliance with the stringent rules applicable. Training and information programmes for employees on human rights and fundamental freedoms had been stepped up for all grades. The Ministry of the Interior participated in the work of the Permanent National Committee for Human Rights, which operated under the auspices of the Ministry of Foreign Affairs and also included representatives from the Ministry of Justice and the Attorney-General's Office. High-ranking officials of the Ministry visited police centres in order to ensure that correct procedures were observed, and it had issued numerous official circulars to promote good treatment and prevent violence and inhumane treatment.

26. The offence of torture entailed civil as well as criminal responsibility and any individual convicted of it was required to pay compensation. Research had been conducted by the Police Academy and the Police Research Centre to identify any areas in which violations might occur. Since mid-1997, a number of circulars had been issued to promote good relations between the police and citizens, with a view to enhancing performance and drawing attention to past violations. The report contained statistics on the number of police officers who had been prosecuted for such offences, to which should be added the most recent figures of 5 officers whose cases had been referred to the Attorney-General for investigation, 3 officers who had been referred to disciplinary councils within the Ministry, and 67 officers who had incurred disciplinary and administrative penalties, all in connection with torture and brutal or inhuman treatment, which reflected the serious attitude of the authorities to such abuses.

27. In reply to questions put by Mr. Burns, Mr. Sørensen and Mr. Mavrommatis, he said that police officers in Egypt studied law and took specialized courses in security matters during their four-year training at the Police Academy, after which the officer graduated with a B.Sc. in law, similar to that offered at other Egyptian universities. Consequently, officers could apply the law effectively, particularly in view of the substantial human rights component of their studies. All applicants to the Police Academy underwent a psychiatric examination and interview in order to ascertain whether they were fit for the security tasks that they would be required to carry out. Continuous training, including instruction on human rights, was given throughout their career. The training of police support staff and police representatives was equally rigorous.

28. It was not true that the Egyptian police relied almost exclusively on obtaining a confession as evidence. On the contrary, the police force worked with highly trained personnel and the latest technical tools such as forensic laboratories. The high esteem in which the Egyptian police force was held was reflected in the fact that many students from Arab and African countries, and from the Commonwealth of Independent States, attended the training academy. The delegation had already referred to the mechanisms and criteria that governed police operations and had demonstrated the high level of training of police officers and support personnel, which addressed the remark concerning the treatment of citizens by the police.

29. In response to the reference by Mr. Burns to the Egyptian NGO report on prisons entitled "Empty stomachs and dirty water" and the use of corporal punishment as a disciplinary measure in prisons, he said that Egypt had been one of the first countries that had sought to provide in its national legislation for a minimum level of treatment of prisoners in compliance with international standards on the classification and distribution of prisoners, living conditions, visits and prisoners' rights in regard to medical care, correspondence, legal counsel and continuing their studies. The Ministry of the Interior had drawn up an ambitious plan for prison development, on the basis of available resources. Prisoners were helped to adapt to the social environment through the implementation of modern policies. Prisons were routinely investigated by the competent judicial authorities in order to ensure that all rules were respected and that measures were taken against any misconduct or irregular behaviour. All prisoners could submit complaints to

the prison officer, who must transmit them to the proper judicial authority for investigation. The quality of the food served in prisons conformed to the most recent internationally recognized standards. An Egyptian NGO that looked after the interests of prisoners and their families did highly effective work.

30. Every prison had a doctor on duty 24 hours a day and a clinic providing inmates with medical and health care. There was also a well-equipped central prison hospital in each region for more difficult cases and contacts were maintained with university and other hospitals with expertise in specialized fields. As from the end of 1998, the Prison Department at the Ministry of the Interior had concluded contracts with 125 Ministry of Health doctors for service in the country's central prisons. Many prison hospitals had recently been modernized and new clinics had been built.

31. "Hard labour" was a term inherited from the past. The images it conjured up bore no relation to the ordinary manual or technical labour currently carried out in prisons, which took account of inmates' wishes and aptitudes and was designed to assist in reintegrating them into society on their release. The number of working hours was regulated and the work was remunerated.

32. Corporal punishment had been replaced by such disciplinary measures as temporary solitary confinement or temporary suspension of visits.

33. Training courses for prison officers covered areas such as social science and psychology and were given by highly qualified academics. Some prison officers, both male and female, were arts and social science graduates. Their expertise was used to improve the social and psychological environment in prisons and to prepare inmates for life in society after their release.

34. All prison officers were supervised by the Monitoring and Inspection Department at the Ministry of the Interior and by the Department of Public Prosecutions, which investigated complaints and took appropriate disciplinary action in the light of their findings.

35. The social, cultural and economic status of prison officers was comparable to that of their peers in other law enforcement branches. They actually enjoyed a number of financial advantages to compensate for the nature of their work.

36. Police officers did not enjoy immunity either under the Emergency Act or under ordinary legislation but were subject to criminal investigation and liable to disciplinary sanctions under the Police Act. Egypt's report contained statistics regarding criminal and disciplinary proceedings against members of the police force.

37. Mr. FAHMI (Egypt) said that the El-Khosheh case was an ordinary murder case that had been exploited by the media to discredit Egypt through mendacious reports and allegations of fomenting intercommunal strife. Fifteen people who had been arrested and held in Dar al-Salaam police station had allegedly been beaten and tortured by police officers to coerce them into confessing to a murder. The Department of Public Prosecutions had investigated the allegations. The police officers accused of ill-treatment

had denied all the charges. The plaintiffs had been examined by forensic medical experts to establish the nature of their injuries and the time and manner of their infliction. According to the medical report, five of the plaintiffs suffered from skin diseases and eczema. One had sustained a fracture of his right foot in a car accident. Others displayed injuries due to scratching or friction which had apparently been inflicted deliberately by a coin or medal 72 hours before the medical examination. One had an injury to his right eye and another to his left ear, neither of which had been sustained as a result of a recent assault. No traces of injuries due to torture or ill-treatment had been found. The Department of Public Prosecutions had therefore dismissed the criminal charges as unsubstantiated. Although the Department welcomed complaints from all sources, it urged the bodies concerned to verify the accuracy of their information with the competent authorities.

38. The Department of Public Prosecutions had ordered the arrest of Mr. Hafez Abou Seada on receiving information to the effect that he had received funds from abroad to publish a report containing exaggerated and unfounded information of a nature likely to foment intercommunal strife and undermine State security. Such activities were punishable under Egyptian law and contrary to a recommendation by the Egyptian Organization of Human Rights against the acceptance of funds from foreign government sources. Mr. Abou Seada had been released after a few days. The investigation was continuing and charges would be brought if sufficient evidence was obtained to establish that there had been a breach of the Criminal Code. Egyptian legislation was consistent with article 13 of the recently adopted United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (commonly known as the Declaration on human rights defenders), which stipulated that NGOs, in exercising their right to raise funds, should respect national legislation.

39. With regard to the Belquas case relating to the death in police custody of Wahid Ahmed Abdullah, the Department of Public Prosecutions had instituted an investigation. The victim had undergone an autopsy. One senior and five junior police officers had been charged with torture, murder, sexual harassment and unlawful arrest. They would be tried in the competent criminal court.

40. Egyptian legislation guaranteed the right to legal representation from the time of arrest. Any violation of that right entailed disciplinary action. Access to a doctor depended on the state of health of the arrested person. Under the Prisons Act, all detainees were guaranteed full medical care.

41. A Human Rights Office under the Assistant Attorney-General had been established at the Department of Public Prosecutions in 1993 to investigate complaints of human rights violations. Qualified staff were currently available to deal with such complaints rapidly and effectively. The report provided details of the cases investigated.

42. The Department was responsible for ensuring that speedy action was taken on allegations of torture or ill-treatment. Its unannounced visits to places of detention helped to prevent ill-treatment and unlawful detention.

43. Forensic medicine was highly developed in Egypt, covering all fields of specialization and using state-of-the-art equipment. Practitioners were given regular opportunities to update their skills. Their services were of particular importance in investigating allegations of torture or ill-treatment. Where special expertise was required, the Forensic Medicine Authority consulted specialists in university medical faculties or scientific research centres.

44. Egyptian legislation did not set a time limit for the completion of investigations by the Department of Public Prosecutions. The duration of an investigation depended on the circumstances of each case. Police investigations were limited to 24 hours, following which the case was referred to the Department.

45. Staff members of the Department of Public Prosecutions enjoyed judicial immunity to ensure their independence and impartiality in dealing with complaints. The Department supervised the activities of the police force and other law enforcement agencies.

46. Capital punishment was executed by hanging. The delegation had been unable to obtain the statistics on capital punishment requested by the Committee but would forward them in due course.

47. Information about sexual harassment of women would also be supplied as soon as possible.

48. All citizens had the right to file complaints and the duty to report any crime of which they had knowledge. The Department of Public Prosecutions investigated all complaints, even from third parties provided that they were acting with the consent of the alleged victim. The results of the investigation were announced only to the victim and the accused or their representatives. The Department was required to inform the victim of a decision to close a case so that he or she could file an appeal.

49. The CHAIRMAN, speaking as Country Rapporteur, asked whether the right of access to a lawyer and doctor of one's choosing from the time of arrest had been maintained under the Emergency Act or whether provision had been made for incommunicado detention.

50. The delegation's account of the El-Kosheh case was so different from that contained in the report of an Egyptian NGO that he had found himself wondering whether they were referring to the same case. The persons interviewed by the NGO seemed to be different from those examined by the forensic experts of the Department of Public Prosecutions. The NGO claimed to have seen the physical sequelae of torture.

51. The offence for which Mr. Hafez Abou Seada had been arrested was, according to the delegation, that of accepting foreign funding for his publication and engaging in activities that were designed to cause intercommunal strife. Drawing the attention of the delegation to a report by Mr. Abou Seada, he asked whether that was the document that had led to his arrest. If so, it seemed to be couched in the sober language typical of a responsible NGO and was unlikely to incite anybody to commit violent acts.

52. Mr. KHALIL (Egypt) responded to the first question by assuring the Committee that the Emergency Act entitled detainees to have access to a lawyer and a doctor from the moment of arrest. That right was clearly guaranteed for all persons in detention in Egypt.

53. As for the apparent contradiction between the report of the NGO and the findings of the Department of Public Prosecutions, the acts in question were of a criminal nature and bore no relation to the Emergency Act, as the case had been handled under ordinary legal procedure. The plaintiffs had failed to produce any evidence of acts of torture. Those who had invoked physical traces on their bodies had been unable to prove they had anything to do with ill-treatment. In addition, the accounts given by the plaintiffs had been full of discrepancies. It was unfortunate that the authors of the report had exploited the situation with the aim of fomenting sectarian unrest and innocent civilians had paid the price. The organization in question had relied on rhetoric and baseless accusations, and had not consulted the competent institutions to check on the veracity of the allegations. When such allegations were put to the authorities, of course they were verified with the utmost care. In such circumstances, the findings of the Department of Public Prosecutions would be the only credible source.

54. The CHAIRMAN thanked the Egyptian delegation for the enormous amount of work it had put into replying to the Committee's questions.

55. The delegation of Egypt withdrew.

The public part of the meeting rose at 5.25 p.m.